



Journal of the House

State of Indiana

113th General Assembly

First Regular Session

Twenty-seventh Meeting Day

Monday Morning

March 3, 2003

The House convened at 9:00 a.m. with the Speaker in the Chair.

The invocation was offered by Pastor David Shadday, St. Paul's Lutheran Church, Indianapolis, the guest of Representative Michael B. Murphy.

The Pledge of Allegiance to the Flag was led by Representative Lawrence L. Buell.

The Speaker ordered the roll of the House to be called:

T. Adams	Kromkowski
Aguilera	Kruse
Alderman	Kuzman
Austin	LaPlante
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Becker	Liggett
Behning ☐	J. Lutz
Bischoff	Lytle
Borror	Mahern
Bosma	Mangus ☐
Bottorff	Mays
C. Brown	McClain
T. Brown	Moses
Buck	Murphy ☐
Budak	Neese
Buell	Noe
Burton	Orentlicher
Cheney	Oxley
Cherry	Pelath
Chowning	Pflum
Cochran	Pierce
Crawford	Pond
Crooks	Porter ☐
Day	Reske
Denbo	Richardson
Dickinson	Ripley
Dobis	Robertson
Duncan	Ruppel
Dvorak	Saunders
Espich	Scholer
Foley	V. Smith
Frenz	Stevenson
Friend	Stilwell
Frizzell	Stine
Fry	Stutzman
GiaQuinta	Summers
Goodin	Thomas
Grubb	Thompson
Gutwein	Torr
Harris	Turner
Hasler	Ulmer
Heim	Weinzapfel
Herrell	Welch
Hinkle	Whetstone
Hoffman	Wolkins
Kersey	D. Young
Klinker	Yount
Koch	Mr. Speaker

Roll Call 255: 96 present; 4 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, March 4, 2003, at 9:00 a.m.

ORENTLICHER

Motion prevailed.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 477, 493, and 507 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Joint Resolution 7

Representative Welch called down Engrossed House Joint Resolution 7 for third reading:

A JOINT RESOLUTION proposing an amendment to Article 6, Section 2 of the Indiana Constitution concerning local government.

The joint resolution was read a third time by sections and placed upon its passage. The question was, Shall the joint resolution pass?

Roll Call 256: yeas 91, nays 0. The joint resolution was declared passed. The question was, Shall the title of the joint resolution remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the joint resolution. Senate sponsor: Senator Skillman.

Engrossed House Bill 1972

Representative Stilwell called down Engrossed House Bill 1972 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 257: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Riegsecker and Craycraft.

Engrossed House Bill 1858

Representative Harris called down Engrossed House Bill 1858 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass? Representatives Aguilera and Noe were excused from voting.

Roll Call 258: yeas 93, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Kenley, Rogers, Landske, and S. Smith.

The Speaker yielded the gavel to the Speaker Pro Tempore,

Representative Dobis.

Engrossed House Bill 1850

Representative Becker called down Engrossed House Bill 1850 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

The bill was read a third time by sections and placed upon its passage.

HOUSE MOTION (Amendment 1850-2)

Mr. Speaker: I move that Engrossed House Bill 1850 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 3, line 23, after "under" insert "**section**".

Page 4, line 3, delete "6(a)" and insert "**5**".

(Reference is to HB 1850 as reprinted February 21, 2003.)

BECKER

There being a two-thirds vote in favor of the motion, the motion prevailed.

COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred Engrossed House Bill 1850, begs leave to report that said bill has been amended as directed.

BECKER

Report adopted.

The question then was, Shall the bill pass?

Roll Call 259: yeas 92, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Server, Long, and L. Lutz.

Representative Bosma was excused.

Engrossed House Bill 1816

Representative L. Lawson called down Engrossed House Bill 1816 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 260: yeas 92, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Clark.

Engrossed House Bill 1587

Representative Summers called down Engrossed House Bill 1587 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 261: yeas 60, nays 33. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Clark and Howard.

Representative Murphy, who had been excused, was present.

Engrossed House Bill 1540

Representative Welch called down Engrossed House Bill 1540 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 262: yeas 43, nays 50. The bill failed.

The Speaker Pro Tempore yielded the gavel to the Speaker.

Engrossed House Bill 1499

Representative Welch called down Engrossed House Bill 1499 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 263: yeas 51, nays 44. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Server.

Engrossed House Bill 1431

Representative L. Lawson called down Engrossed House Bill 1431 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 264: yeas 92, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Clark and Simpson.

Engrossed House Bill 1430

Representative Mahern called down Engrossed House Bill 1430 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 265: yeas 93, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Lawson and Sipes.

Engrossed House Bill 1369

Representative Kuzman called down Engrossed House Bill 1369 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages and tobacco.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 266: yeas 77, nays 16. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Server and Broden.

Representative Bosma, who had been excused, was present.

Engrossed House Bill 1360

Representative L. Lawson called down Engrossed House Bill 1360 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 267: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Clark and Rogers.

Engrossed House Bill 1271

Representative Mays called down Engrossed House Bill 1271 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 268: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Hershman.

Engrossed House Bill 1242

Representative Ayres called down Engrossed House Bill 1242 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 269: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Skillman and Dembowski.

Engrossed House Bill 1197

Representative Lytle called down Engrossed House Bill 1197 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 270: yeas 95, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators R. Meeks and L. Lutz.

HOUSE BILLS ON SECOND READING

The following bills were called down by their respective authors, were read a second time by title, and, there being no amendments, were ordered engrossed: House Bills 1010, 1073, 1092, 1106, 1107, 1129, 1146, 1153, 1184, 1186, 1195, 1196, 1202, 1276, 1278, 1287, 1361, 1365, 1367, 1375, 1378, 1401, 1439, 1445, 1458, 1481, 1519, 1521, 1525, 1558, 1567, 1680, 1681, 1707, 1733, 1761, 1789, 1791, 1796, 1828, 1837, 1842, 1845, 1849, 1880, 1882, 1894, 1895, 1901, 1917, and 1935 and House Joint Resolutions 2 and 8.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 2:10 p.m. with the Speaker in the Chair.

Representative Behning, who had been excused, was present.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 327, 373, and 490 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 26 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 26

The Speaker handed down Senate Concurrent Resolution 26, sponsored by Representatives Klinker and Ripley:

A CONCURRENT RESOLUTION urging the Department of Transportation to move swiftly to complete the Fort to Port and Western Corridor of the Hoosier Heartland by means of a four-lane highway.

Whereas, The Fort to Port and Western Corridor of the Hoosier Heartland Highway are of immense importance to economic vitality and to providing a safer means for passenger and commercial transportation flow;

Whereas, With the completion of the "middle corridor" of the Hoosier Heartland Highway, there still remains a need for a four-lane highway between Fort Wayne and Toledo (Fort to Port) and from Logansport to Lafayette (along State Road 25);

Whereas, Economic development hinges on enhanced infrastructure and the completion of the entire Hoosier Heartland Highway (eastern and western corridors) will link the communities of Lafayette, Logansport, Peru, Wabash, Huntington, Fort Wayne, and Toledo; and

Whereas, The completion of the Fort to Port and the Western Corridor of the Hoosier Heartland Highway provides the full vision of a four-lane highway which started many years ago in order to enhance the lives of everyone along US 24 and State Road 25: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly understands the immense importance of the timely completion of the Fort to Port and Western Corridor of the Hoosier Heartland Highway.

SECTION 2. That the Indiana General Assembly recognizes Governor O'Bannon's recent announcement of a preferred route to make the Hoosier Heartland Highway a four-lane, divided highway between Lafayette and Logansport.

SECTION 3. That the Indiana General Assembly urges the Governor and his Administration, through the Indiana Department of Transportation, as well as the Indiana and Ohio Congressional Delegations, to move swiftly to complete the Fort to Port and Western Corridor of the Hoosier Heartland Highway by means of a four-lane highway to provide for the safe and efficient means to transport both passengers and commerce.

SECTION 4. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Governor Frank O'Bannon, the Indiana Department of Transportation, Congressman Mark Souder, Senator Richard Lugar, and Senator Evan Bayh.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

HOUSE BILLS ON SECOND READING

House Bill 2008

Representative Crawford called down House Bill 2008 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 2008-14)

Mr. Speaker: I move that House Bill 2008 be amended to read as follows:

Page 50, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 28. IC 6-3.1-4-6, AS AMENDED BY P.L.192-2002(ss), SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. ~~Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for Indiana qualified research expense incurred after December 31, 2004.~~ Notwithstanding Section 41 of the Internal Revenue Code, the termination date in Section 41(h) of the Internal Revenue Code does not apply to a taxpayer who is eligible for the credit under this chapter for the taxable year in which the Indiana qualified research expense is incurred."

Renumber all SECTIONS consecutively.

(Reference is to HB 2008 as printed February 26, 2003.)

CHERRY

Upon request of Representatives Cherry and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 271: yeas 48, nays 49. Motion failed.

HOUSE MOTION
(Amendment 2008-8)

Mr. Speaker: I move that House Bill 2008 be amended to read as follows:

Page 50, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 28. IC 6-2.5-5-39 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 39. (a) As used in this section, "product" includes a pilot model, a process, a formula, an invention, a technique, a patent, or a similar property. The term includes property to be used in a taxpayer's trade or business and property to be held for sale, lease, or license, regardless of whether the property is ultimately placed in service, sold, leased, or licensed.

(b) As used in this section, "research and development" means laboratory or experimental activity to develop or improve a product or to discover information that would eliminate uncertainty concerning the development or improvement of a product.

(c) The term "research and development" does not include any of the following:

- (1) The ordinary testing or inspection of materials or products for quality control. The quality control testing to which this subdivision applies includes testing or inspection to determine whether particular units of materials or products conform to specified parameters. Quality control testing does not include testing to determine if the design of a product is appropriate.
- (2) Efficiency surveys.
- (3) Management studies.
- (4) Consumer surveys.
- (5) Advertising or promotions.
- (6) The acquisition of another's patent, model, production, process, or other product.
- (7) Research in connection with literary, historical, or similar projects.
- (8) Activities to ascertain the existence, location, extent, or quality of any deposit of oil, gas, ore, or other mineral.
- (9) Assembly, construction, or installation of property that is placed in service or held for sale, lease, or license.

(d) As used in this section, "uncertainty" means the unavailability to the taxpayer of information necessary to establish the capability or method for developing or improving

the product or the appropriate design of the product.

(e) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for direct use in research and development."

Page 82, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 65. [EFFECTIVE JULY 1, 2003] For purposes of IC 6-2.5-5-39, as added by this act, all transactions shall be considered as having occurred after June 30, 2003, to the extent that delivery of the property or services constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before July 1, 2003, to the extent that the agreement of the parties to the transaction was entered into before July 1, 2003, and payment for the property or services furnished in the transaction is made before July 1, 2003, notwithstanding the delivery of the property or services after June 30, 2003."

Renumber all SECTIONS consecutively.

(Reference is to HB 2008 as printed February 26, 2003.)

HINKLE

Upon request of Representatives Hinkle and Friend, the Speaker ordered the roll of the House to be called. Roll Call 272: yeas 48, nays 50. Motion failed.

HOUSE MOTION
(Amendment 2008-11)

Mr. Speaker: I move that House Bill 2008 be amended to read as follows:

Page 50, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 28. IC 6-3.1-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The economic development for a growing economy board is established. The board consists of the following seven (7) members:

- (1) The director or, upon the director's designation, the executive director of the department of commerce.
- (2) The director of the budget agency.
- (3) The commissioner of the department of state revenue.
- (4) Four (4) members appointed by the governor, not more than two (2) of whom may be members of the same political party.

(b) The director shall serve as chairperson of the board. Four (4) members of the board constitute a quorum to transact and vote on the business of the board.

(c) The department of commerce shall assist the board in carrying out the board's duties under this chapter and IC 6-3.1-25.

SECTION 29. IC 6-3.1-13-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) The economic development for a growing economy fund is established to be used exclusively for the purposes of this chapter and IC 6-3.1-25, including paying for the costs of administering this chapter and IC 6-3.1-25. The fund shall be administered by the department of commerce.

(b) The fund consists of collected fees, appropriations from the general assembly, and gifts and grants to the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter. Expenditures from the fund are subject to appropriation by the general assembly and approval by the budget agency."

Page 52, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 31. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 26. Hoosier Homefield Advantage Investment Tax Credit

Sec. 1. As used in this chapter, "base state tax liability" means a taxpayer's state tax liability in the taxable year immediately preceding the taxable year in which a taxpayer makes a qualified investment.

Sec. 2. As used in this chapter, "board" has the meaning set forth in IC 6-3.1-13-1.

Sec. 3. As used in this chapter, "director" has the meaning set forth in IC 6-3.1-13-3.

Sec. 4. As used in this chapter, "full-time employee" has the meaning set forth in IC 6-3.1-13-4.

Sec. 5. As used in this chapter, "highly compensated employee" has the meaning set forth in Section 414(q) of the Internal Revenue Code.

Sec. 6. As used in this chapter, "new employee" has the meaning set forth in IC 6-3.1-13-6.

Sec. 7. As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership.

Sec. 8. (a) As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures for:

- (1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing equipment;
- (2) the purchase of new computers and related equipment;
- (3) costs associated with the modernization of existing telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing facilities;
- (4) onsite infrastructure improvements;
- (5) the construction of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing facilities;
- (6) costs associated with retooling existing machinery and equipment; and
- (7) costs associated with the construction of special purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry;

that are certified by the board under this chapter as being eligible for the credit under this chapter.

(b) The term does not include property that can be readily moved outside Indiana.

Sec. 9. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 27-1-18-2 (the insurance premiums tax); and
- (3) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 10. As used in this chapter, "state tax liability growth" means the difference between a taxpayer's state tax liability in a taxable year minus the greater of:

- (1) the taxpayer's state tax liability in the most recent prior taxable year in which the taxpayer claimed part of a credit under this chapter; or
- (2) the taxpayer's base state tax liability;

before the application of a credit under this chapter.

Sec. 11. As used in this chapter, "taxpayer" means an individual, a corporation, a partnership, or other entity that has state tax liability.

Sec. 12. The board may make credit awards under this chapter to foster job creation and higher wages in Indiana.

Sec. 13. A taxpayer that:

- (1) is awarded a tax credit under this chapter by the board;

and

- (2) complies with the conditions set forth in this chapter and the agreement entered into by the board and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability in a taxable year.

Sec. 14. (a) The total amount of a tax credit claimed under this chapter equals thirty percent (30%) of the amount of a qualified investment made by the taxpayer in Indiana.

(b) In the taxable year in which a taxpayer makes a qualified investment, the taxpayer may claim a credit under this chapter in an amount equal to the lesser of:

- (1) thirty percent (30%) of the amount of the qualified investment; or
- (2) the taxpayer's state tax liability growth.

The taxpayer may carry forward any remainder.

Sec. 15. (a) A taxpayer may carry forward a remainder for not more than nine (9) consecutive taxable years beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment.

(b) The amount that a taxpayer may carry forward to a particular taxable year under this section equals the lesser of the following:

- (1) The taxpayer's state tax liability growth.
- (2) The unused part of a credit allowed under this chapter.

(c) A taxpayer may:

- (1) claim a tax credit under this chapter for a qualified investment; and
- (2) carry forward a remainder for one (1) or more different qualified investments;

in the same taxable year.

(d) The total amount of each tax credit claimed under this chapter may not exceed thirty percent (30%) of the qualified investment for which the tax credit is claimed.

Sec. 16. If a pass through entity does not have state tax liability growth against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 17. A person that proposes a project to create new jobs or increase wage levels in Indiana may apply to the board before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application.

Sec. 18. After receipt of an application, the board may enter into an agreement with the applicant for a credit under this chapter if the board determines that all the following conditions exist:

- (1) The applicant has conducted business in Indiana for at least one (1) year immediately preceding the date the application is received.
- (2) The applicant's project will raise the total earnings of employees of the applicant in Indiana.
- (3) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.
- (4) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not raising the total earnings of employees in Indiana.
- (5) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.
- (6) The credit is not prohibited by section 19 of this chapter.
- (7) The average wage that will be paid by the taxpayer to its employees (excluding highly compensated employees) at the location after the credit is given will be at least equal to one hundred fifty percent (150%) of the hourly minimum wage

under IC 22-2-2-4 or its equivalent.

Sec. 19. A person is not entitled to claim the credit provided by this chapter for any jobs that the person relocates from one (1) site in Indiana to another site in Indiana. Determinations under this section shall be made by the board.

Sec. 20. The board shall certify the amount of the qualified investment that is eligible for a credit under this chapter. In determining the credit amount that should be awarded, the board shall grant a credit only for the amount of the qualified investment that is directly related to expanding the workforce in Indiana.

Sec. 21. The board shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

- (1) A detailed description of the project that is the subject of the agreement.
- (2) The first taxable year for which the credit may be claimed.
- (3) The amount of the taxpayer's state tax liability for each tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.
- (4) The maximum tax credit amount that will be allowed for each taxable year.
- (5) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.
- (6) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.
- (7) A requirement that the taxpayer shall annually report to the board the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, the average wage of all employees at the location where the qualified investment is made, and any other information the director needs to perform the director's duties under this chapter.
- (8) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.
- (9) A requirement that the taxpayer shall pay an average wage to all its employees other than highly compensated employees in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.
- (10) A requirement that the taxpayer will keep the qualified investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.
- (11) A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.
- (12) A requirement that the taxpayer shall provide written notification to the director and the board not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.
- (13) Any other performance conditions that the board determines are appropriate.

Sec. 22. A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the director's certificate of verification under this chapter for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

Sec. 23. If the director determines that a taxpayer who has received a credit under this chapter is not complying with the requirements of the tax credit agreement or all the provisions of this chapter, the director shall, after giving the taxpayer an

opportunity to explain the noncompliance, notify the department of commerce and the department of state revenue of the noncompliance and request an assessment. The department of state revenue, with the assistance of the director, shall state the amount of the assessment, which may not exceed the sum of any previously allowed credits under this chapter. After receiving the notice, the department of state revenue shall make an assessment against the taxpayer under IC 6-8-1.

Sec. 24. On or before March 31 each year, the director shall submit a report to the board on the tax credit program under this chapter. The report must include information on the number of agreements that were entered into under this chapter during the preceding calendar year, a description of the project that is the subject of each agreement, an update on the status of projects under agreements entered into before the preceding calendar year, and the sum of the credits awarded under this chapter. A copy of the report shall be delivered to the executive director of the legislative services agency for distribution to the members of the general assembly.

Sec. 25. On a biennial basis, the board shall provide for an evaluation of the tax credit program, giving first priority to using the Indiana economic development council established under IC 4-3-14. The evaluation must include an assessment of the effectiveness of the program in creating new jobs and increasing wages in Indiana and of the revenue impact of the program and may include a review of the practices and experiences of other states with similar programs. The director shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives after June 30 and before November 1 in each odd-numbered year."

Renumber all SECTIONS consecutively.

(Reference is to HB 2008 as printed February 26, 2003.)

ESPICH

Representative Pelath rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 2008 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION (Amendment 2008-9)

Mr. Speaker: I move that House Bill 2008 be amended to read as follows:

Page 50, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 28. IC 6-1.1-3-22, AS ADDED BY P.L.192-2002(ss), SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) Except to the extent that it conflicts with a statute, 50 IAC 4.2 (as in effect January 1, 2001) is incorporated by reference into this section.

(b) Tangible personal property within the scope of 50 IAC 4.2 (as in effect January 1, 2001) shall be assessed on the assessment dates in calendar years 2003 and thereafter in conformity with 50 IAC 4.2 (as in effect January 1, 2001), except that the rate of total valuation percentage to apply to a taxpayer in a taxing district under 50 IAC 4.2-4-9 is the following:

- (1) Twenty-five percent (25%) on an assessment date in 2004 for property taxes first due and payable in 2005.
- (2) Twenty percent (20%) on an assessment date in 2005 for property taxes first due and payable in 2006.
- (3) Ten percent (10%) on an assessment date in 2006 and each year thereafter for property taxes first due and payable in 2007 and each year thereafter.

(c) The publisher of the Indiana Administrative Code may continue to publish 50 IAC 4.2 (as in effect January 1, 2001) in the Indiana Administrative Code.

(d) 50 IAC 4.3 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 4.2 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor.

SECTION 29. IC 6-1.1-8-44, AS ADDED BY P.L.192-2002(ss),

SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 44.(a) Except to the extent that it conflicts with a statute, 50 IAC 5.1 (as in effect January 1, 2001) is incorporated by reference into this section.

(b) Tangible personal property within the scope of 50 IAC 5.1 (as in effect January 1, 2001) shall be assessed on the assessment dates in calendar years 2003 and thereafter in conformity with 50 IAC 5.1 (as in effect January 1, 2001), **except that the rate of total valuation percentage to apply to a taxpayer in a taxing district under 50 IAC 5.1-6-9 is the following:**

- (1) **Twenty-five percent (25%) on an assessment date in 2004 for property taxes first due and payable in 2005.**
- (2) **Twenty percent (20%) on an assessment date in 2005 for property taxes first due and payable in 2006.**
- (3) **Ten percent (10%) on an assessment date in 2006 and each year thereafter for property taxes first due and payable in 2007 and each year thereafter.**

(c) The publisher of the Indiana Administrative Code may continue to publish 50 IAC 5.1 (as in effect January 1, 2001) in the Indiana Administrative Code.

(d) 50 IAC 5.2 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 5.1 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor."

Renumber all SECTIONS consecutively.

(Reference is to HB 2008 as printed February 26, 2003.)

BUELL

Representative Pelath rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 2008 a bill pending before the House. The Speaker ruled the point was not well taken.

The question was on the motion of Representative Buell (2008-9). Upon request of Representatives Buell and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 273: yeas 48, nays 50. Motion failed.

HOUSE MOTION (Amendment 2008-10)

Mr. Speaker: I move that House Bill 2008 be amended to read as follows:

Page 34, line 2, delete "as follows:".

Page 34, delete line 3.

Page 34, run in lines 2 through 4.

Page 34, delete lines 5 through 6.

Page 45, line 13, delete "; including the supplemental distribution required" and insert "; and".

Page 45, delete line 14.

Page 45, delete lines 21 through 34, begin a new paragraph and insert:

"Sec. 12. (a) The authority shall make the following distributions from the fund on the schedule during the designated state fiscal year that is approved by the budget agency:

- (1) **In the state fiscal year beginning July 1, 2003, and ending June 30, 2004, the authority shall distribute thirty-six million dollars (\$36,000,000) to the Indiana development finance authority (IC 4-4-11-4) for deposit as follows:**

(A) **Thirty-two million four hundred thousand dollars (\$32,400,000) for deposit in the twenty-first century research and development fund (IC 4-4-5.1-3).**

(B) **Three million six hundred thousand dollars (\$3,600,000) for deposit in the Indiana venture fund (IC 4-4-11.7-5).**

- (2) **In the state fiscal year beginning July 1, 2004, and ending June 30, 2005, the authority shall distribute thirty-six million dollars (\$36,000,000) to the Indiana development finance authority (IC 4-4-11-4) for deposit as follows:**

(A) **Twenty-eight million eight hundred thousand dollars (\$28,800,000) for deposit in the twenty-first century**

research and development fund (IC 4-4-5.1-3).

(B) **Seven million two hundred thousand dollars (\$7,200,000) for deposit in the Indiana venture fund (IC 4-4-11.7-5).**

- (3) **In the state fiscal year beginning July 1, 2005, and ending June 30, 2006, the authority shall distribute thirty-six million dollars (\$36,000,000) to the Indiana development finance authority (IC 4-4-11-4) for deposit as follows:**

(A) **Twenty-five million two hundred thousand dollars (\$25,200,000) for deposit in the twenty-first century research and development fund (IC 4-4-5.1-3).**

(B) **Ten million eight hundred thousand dollars (\$10,800,000) for deposit in the Indiana venture fund (IC 4-4-11.7-5).**

- (4) **In the state fiscal year beginning July 1, 2006, and ending June 30, 2007, the authority shall distribute thirty-six million dollars (\$36,000,000) to the Indiana development finance authority (IC 4-4-11-4) for deposit as follows:**

(A) **Twenty-one million six hundred thousand dollars (\$21,600,000) for deposit in the twenty-first century research and development fund (IC 4-4-5.1-3).**

(B) **Fourteen million four hundred thousand dollars (\$14,400,000) for deposit in the Indiana venture fund (IC 4-4-11.7-5).**

- (5) **In the state fiscal year beginning July 1, 2007, and ending June 30, 2008, the authority shall distribute thirty-six million dollars (\$36,000,000) to the Indiana development finance authority (IC 4-4-11-4) for deposit as follows:**

(A) **Eighteen million dollars (\$18,000,000) for deposit in the twenty-first century research and development fund (IC 4-4-5.1-3).**

(B) **Eighteen million dollars (\$18,000,000) for deposit in the Indiana venture fund (IC 4-4-11.7-5).**

- (6) **In the state fiscal year beginning July 1, 2008, and ending June 30, 2009, the authority shall distribute thirty-six million dollars (\$36,000,000) to the Indiana development finance authority (IC 4-4-11-4) for deposit as follows:**

(A) **Eighteen million dollars (\$18,000,000) for deposit in the twenty-first century research and development fund (IC 4-4-5.1-3).**

(B) **Eighteen million dollars (\$18,000,000) for deposit in the Indiana venture fund (IC 4-4-11.7-5).**

- (7) **In the state fiscal year beginning July 1, 2009, and ending June 30, 2010, the authority shall distribute thirty-six million dollars (\$36,000,000) to the Indiana development finance authority (IC 4-4-11-4) for deposit as follows:**

(A) **Eighteen million dollars (\$18,000,000) for deposit in the twenty-first century research and development fund (IC 4-4-5.1-3).**

(B) **Eighteen million dollars (\$18,000,000) for deposit in the Indiana venture fund (IC 4-4-11.7-5).**

- (8) **In the state fiscal year beginning July 1, 2010, and ending June 30, 2011, the authority shall distribute thirty-six million dollars (\$36,000,000) to the Indiana development finance authority (IC 4-4-11-4) for deposit as follows:**

(A) **Eighteen million dollars (\$18,000,000) for deposit in the twenty-first century research and development fund (IC 4-4-5.1-3).**

(B) **Eighteen million dollars (\$18,000,000) for deposit in the Indiana venture fund (IC 4-4-11.7-5).**

- (9) **In the state fiscal year beginning July 1, 2011, and ending June 30, 2012, the authority shall distribute thirty-six million dollars (\$36,000,000) to the Indiana development finance authority (IC 4-4-11-4) for deposit as follows:**

(A) **Eighteen million dollars (\$18,000,000) for deposit in**

the twenty-first century research and development fund (IC 4-4-5.1-3).

(B) Eighteen million dollars (\$18,000,000) for deposit in the Indiana venture fund (IC 4-4-11.7-5).

(10) In the state fiscal year beginning July 1, 2012, and ending June 30, 2013, the authority shall distribute thirty-six million dollars (\$36,000,000) to the Indiana development finance authority (IC 4-4-11-4) for deposit as follows:

(A) Eighteen million dollars (\$18,000,000) for deposit in the twenty-first century research and development fund (IC 4-4-5.1-3).

(B) Eighteen million dollars (\$18,000,000) for deposit in the Indiana venture fund (IC 4-4-11.7-5)."

Page 45, line 35, delete "(c)" and insert "(b)".

Page 46, line 2, delete "(d)" and insert "(c)".

(Reference is to HB 2008 as printed February 26, 2003.)

THOMPSON

Upon request of Representatives Thompson and Friend, the Speaker ordered the roll of the House to be called. Roll Call 274: yeas 48, nays 50. Motion failed.

HOUSE MOTION (Amendment 2008-7)

Mr. Speaker: I move that House Bill 2008 be amended to read as follows:

Page 52, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 29. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 26. Headquarters Relocation Tax Credit

Sec. 1. As used in this chapter, "corporate headquarters" means the building or buildings where:

- (1) the principal offices of the principal executive officers of an eligible business are located; and
- (2) at least two hundred fifty (250) employees are employed.

Sec. 2. As used in this chapter, "eligible business" means a business that:

- (1) is engaged in either interstate or intrastate commerce;
- (2) maintains a corporate headquarters in a state other than Indiana as of January 1, 2004;
- (3) had annual worldwide revenues of at least one billion dollars (\$1,000,000,000) for the taxable year immediately preceding the business's application for a tax credit under section 12 of this chapter; and
- (4) commits contractually to relocating its corporate headquarters to Indiana.

Sec. 3. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

Sec. 4. As used in this chapter, "qualifying project" means the relocation of the corporate headquarters of an eligible business from a location outside Indiana to a location in Indiana.

Sec. 5. As used in this chapter, "relocation costs" means the reasonable and necessary expenses incurred by an eligible business for a qualifying project. The term includes:

- (1) moving costs and related expenses;
- (2) the purchase of new or replacement equipment;
- (3) capital investment costs; and
- (4) property assembly and development costs, including:
 - (A) the purchase, lease, or construction of buildings and land;
 - (B) infrastructure improvements; and
 - (C) site development costs.

The term does not include any costs that do not directly result from the relocation of the business to a location in Indiana.

Sec. 6. As used in this chapter, "state tax liability" means a

taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.5 (state gross retail and use tax);
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (3) IC 6-5.5 (the financial institutions tax); and
- (4) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "taxpayer" means an individual or entity that has any state tax liability.

Sec. 8. A taxpayer that:

- (1) is an eligible business;
- (2) completes a qualifying project; and
- (3) incurs relocation costs;

is entitled to a credit against the person's state tax liability for the taxable year in which the relocation costs are incurred. The credit allowed under this section is equal to the amount determined under section 9 of this chapter.

Sec. 9. (a) Subject to subsection (b), the amount of the credit to which a taxpayer is entitled under section 8 of this chapter equals the product of:

- (1) fifty percent (50%); multiplied by
- (2) the amount of the taxpayer's relocation costs in the taxable year.

(b) The credit to which a taxpayer is entitled under section 8 of this chapter may not reduce the taxpayer's state tax liability below the amount of the taxpayer's state tax liability in the taxable year immediately preceding the taxable year in which the taxpayer first incurred relocation costs.

Sec. 10. If a pass through entity is entitled to a credit under section 8 of this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 11. (a) A credit allowed under section 8 of this chapter must be taken in ten (10) annual installments, beginning with the year in which the credit is granted. If the amount of an annual installment exceeds the taxpayer's state tax liability in a particular taxable year, the taxpayer may carry forward the amount of the excess to subsequent taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) The credit allowed under this chapter is not refundable.

Sec. 12. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department proof of the taxpayer's relocation costs and all information that the department determines is necessary for the calculation of the credit provided by this chapter.

Sec. 13. In determining whether an expense of the eligible business directly resulted from the relocation of the business, the department shall consider whether the expense would likely have been incurred by the eligible business if the business had not relocated from its original location."

Page 82, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 65. [EFFECTIVE JANUARY 1, 2004] IC 6-3.1-26, as added by this act, applies to taxable years beginning after December 31, 2003."

Renumber all SECTIONS consecutively.

(Reference is to HB 2008 as printed February 26, 2003.)

TURNER

Representative Pelath rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House

Bill 2008 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION
(Amendment 2008-16)

Mr. Speaker: I move that House Bill 2008 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-3-12-2, AS AMENDED BY P.L.58-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The articles of incorporation and bylaws of the Indiana small business development corporation must provide that:

(1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by encouraging the organization and development of new business enterprises, including technologically oriented enterprises;

(2) the board of directors of the corporation is composed of:

(A) ~~the lieutenant governor or~~ the lieutenant governor's designee;

(B) two (2) persons appointed by the governor from recommendations provided by statewide business organizations;

(C) two (2) persons appointed by the governor to represent local host organizations of the small business development center network;

(D) three (3) persons appointed by the governor, who must have experience in business, finance, education, entrepreneurship, or technology development; and

(E) one (1) person appointed by the governor to represent nontraditional entrepreneurs (as defined in IC 4-3-13-6);

(3) ~~the governor shall appoint one (1) of the members of the board of directors to serve as chairman of the board at the pleasure of the governor; shall elect one (1) of the members to serve as chairperson;~~

(4) **subject to subdivision (6),** the corporation may receive money from any source, may enter into contracts, and may expend money for any activities appropriate to its purpose;

(5) **subject to subdivision (6),** the corporation may appoint staff and do all other things necessary or incidental to carrying out the functions listed in section 3 of this chapter;

(6) **the exercise of the corporation's powers under this chapter is subject to the review and approval of the economic development corporation;**

~~(7)~~ (7) any changes in the articles of incorporation or bylaws must be approved by the ~~governor~~; **economic development corporation;**

~~(8)~~ (8) the corporation shall submit an annual report to the governor and to the Indiana general assembly on or before the first day of November for each year;

~~(9)~~ (9) the annual report shall include detailed information on the structure, operation, and financial status of the corporation;

~~(10)~~ (10) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and

~~(11)~~ (11) the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.

(b) Not more than five (5) of the members of the board of directors of the corporation may be members of the same political party.

SECTION 2. IC 4-3-13.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 13.7. Economic Development Corporation

Sec 1. As used in this chapter, "corporation" refers to the economic development corporation established by section 2 of this chapter.

Sec. 2. (a) There is established a body politic and corporate, not a state agency but an independent instrumentality exercising

essential public functions, to be known as the economic development corporation.

(b) The corporation is composed of the following twenty-one (21) members, none of whom may be members of the general assembly:

(1) Three (3) persons appointed by the governor who must be employed in or retired from the private or nonprofit sector but may not represent organized labor. Appointments made under this subdivision are also subject to the requirements of subsection (c).

(2) Three (3) persons appointed by the lieutenant governor who must be employed in or retired from the private or nonprofit sector but may not represent organized labor. Appointments made under this subdivision are also subject to the requirements of subsection (c).

(3) Two (2) persons appointed by the speaker of the house of representatives who must be employed in or retired from the private or nonprofit sector. One (1) of these appointees must represent organized labor and the other appointee may not represent organized labor.

(4) Two (2) persons appointed by the minority leader of the house of representatives who must be employed in or retired from the private or nonprofit sector. One (1) of these appointees must represent organized labor and the other appointee may not represent organized labor.

(5) Two (2) persons appointed by the president pro tempore of the senate who must be employed in or retired from the private or nonprofit sector. One (1) of these appointees must represent organized labor and the other appointee may not represent organized labor.

(6) Two (2) persons appointed by the minority leader of the senate who must be employed in or retired from the private or nonprofit sector. One (1) of these appointees must represent organized labor and the other appointee may not represent organized labor.

(7) One (1) person appointed by the president of Indiana University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(8) One (1) person appointed by the president of Purdue University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(9) One (1) person appointed by the president of Indiana State University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(10) One (1) person appointed by the president of Ball State University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(11) One (1) person appointed by the president of the University of Southern Indiana who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(12) One (1) person appointed by the president of Ivy Tech State College who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(13) One (1) person appointed by the president of Vincennes University who must be employed in or retired from the private or nonprofit sector or academia, but may not represent organized labor.

(c) The governor and lieutenant governor shall coordinate their appointments under subsection (b)(1) and (b)(2) so that those appointments include at least one (1) representative from each of the following industry sectors:

(1) Advanced manufacturing, such as automotive, electronics, aerospace, robotics, or engineering design technology.

(2) Information technology, such as informatics, certified network administration, software development, or fiber

optics.

(3) Life sciences, such as orthopedics, medical devices, biomedical research and development, pharmaceutical manufacturing, agribusiness, nanotechnology, or molecular manufacturing.

(4) Logistics, such as high technology distribution, intermodal ports, or flow and storage of goods, services, and information.

(5) Public utilities (as defined in IC 8-1-2-1).

Sec. 3. The terms of office of the members of the corporation are as follows:

(1) Members appointed by the governor, lieutenant governor, president pro tempore of the senate, or minority leader of the senate serve for terms of four (4) years.

(2) Members appointed by the speaker of the house of representatives, the minority leader of the house of representatives, or the president of a university or college serve for terms of two (2) years.

Each member shall hold office for the term of appointment and shall continue to serve after expiration of the appointment until a successor is appointed and qualified. Members are eligible for reappointment.

Sec. 4. (a) The governor may designate a member of the corporation appointed by the governor under section 2(b)(1) of this chapter to serve as chairperson. However, if the governor does not designate a chairperson, the members shall elect a chairperson from among the members.

(b) The members of the corporation are entitled to a salary per diem for attending meetings equal to the per diem provided by law for members of the general assembly. The members of the corporation shall receive reimbursement for actual and necessary expenses on the same basis as state employees.

Sec. 5. Fourteen (14) members constitute a quorum for the transaction of business. The affirmative vote of at least eleven (11) members is necessary for any action to be taken by the corporation. Members may vote by written proxy delivered in advance to any other member who is present at the meeting.

Sec. 6. Meetings of the corporation shall be held at the call of the chairperson or whenever any five (5) members request a meeting. The members shall meet at least once every three (3) months to attend to the business of the corporation.

Sec. 7. (a) The corporation may, without the approval of the attorney general or any other state officer, employ bond counsel, other legal counsel, technical experts, and other officers, agents, and employees, permanent or temporary, the corporation considers necessary to carry out the efficient operation of the corporation.

(b) The corporation shall determine qualifications, duties, compensation, and terms of service for persons designated in subsection (a).

(c) Employees of the corporation are not employees of the state.

Sec. 8. The corporation is granted all powers necessary or appropriate to carry out and effectuate the corporation's public and corporate purposes under this chapter.

Sec. 9. The purpose of the corporation is to improve the quality of life for the citizens of Indiana by encouraging:

- (1) the diversification of Indiana's economy;
- (2) the creation of new jobs;
- (3) the retention of existing jobs;
- (4) the growth and modernization of existing industry; and
- (5) the promotion of the state.

Sec. 10. The corporation shall be responsible for overseeing the operations of the Indiana small business development corporation under IC 4-3-12-1 and the Indiana economic development council under IC 4-3-14.

Sec. 11. The corporation may incur debt. Debt incurred by the corporation does not represent or constitute a debt of the state within the meaning of the Constitution of the State of Indiana or Indiana statutes.

SECTION 3. IC 4-3-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The articles of

incorporation or bylaws of the corporation, as appropriate, must provide that:

(1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by:

(A) coordinating the activities of all parties having a role in the state's economic development through evaluating, overseeing, and appraising those activities on an ongoing basis;

(B) overseeing the implementation of the state's economic development plan and monitoring the updates of that plan; and

(C) educating and assisting all parties involved in improving the long range vitality of the state's economy;

(2) the board must include:

~~(A) the governor;~~

~~(B) (A) a designee of the lieutenant governor;~~

~~(C) the chief operating officer of the corporation;~~

~~(D) the chief operating officer of the corporation for Indiana's international future; and~~

~~(E) (B) additional eight (8) persons appointed by the governor, not more than four (4) of whom may be of the same political party, who are actively engaged in Indiana in private enterprise, organized labor, state or local governmental agencies, and education, and who represent the diverse economic and regional interests throughout Indiana;~~

(3) ~~the governor shall serve as members shall elect a chairman of the board of the corporation, and the lieutenant governor shall serve as the members, with the approval of the economic development corporation, shall select an chief executive officer executive director of the corporation;~~

(4) ~~the governor members shall appoint elect as vice chairman of the board a member of the board engaged in private enterprise;~~

(5) ~~the lieutenant governor executive director of the corporation shall be responsible as chief executive officer for overseeing implementation of the state's economic development plan as articulated by the corporation and shall oversee the activities of the corporation's chief operating officer corporation;~~

~~(6) the governor may appoint an executive committee composed of members of the board (size and structure of the executive committee shall be set by the articles and bylaws of the corporation);~~

~~(7) (6) subject to subdivision (7), the corporation may receive funds from any source and may expend funds for any activities necessary, convenient, or expedient to carry out its purposes;~~

~~(7) the exercise of the corporation's powers under this chapter is subject to the review and approval of the economic development corporation;~~

~~(8) any amendments to the articles of incorporation or bylaws of the corporation must be approved by the governor; board of the economic development corporation;~~

~~(9) the corporation shall submit an annual report to the governor and to the Indiana general assembly on or before the first day of November for each year;~~

~~(10) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and~~

~~(11) the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.~~

(b) **Subject to subsection (a)(7),** the corporation may perform other acts and things necessary, convenient, or expedient to carry out the purposes identified in this section, and it has all rights, powers, and privileges granted to corporations by IC 23-17 and by common law.

SECTION 4. IC 4-4-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Department" shall mean the department of ~~commerce~~ **tourism and community development** provided for by this chapter.

"Director" shall mean the director of the department.

SECTION 5. IC 4-4-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. There is hereby created a state department to be known as the department of ~~commerce~~ **tourism and community development**. The lieutenant governor, by virtue of his office, shall serve as director of the department and commissioner of agriculture, and he shall receive no additional salary in these capacities."

Page 82, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 70. [EFFECTIVE JULY 1, 2003] (a) The duties conferred on the department of commerce relating to energy policy are transferred to the department of environmental management, established by IC 13-13-1-1, on July 1, 2003.

(b) The rules adopted by the department of commerce concerning energy policy before July 1, 2003, are considered, after June 30, 2003, rules of the department of environmental management until the department of environmental management adopts replacement rules.

(c) On July 1, 2003, the department of environmental management becomes the owner of all real and personal property relating to energy policy of the department of commerce.

(d) Any fund relating to energy policy under the control or supervision of the department of commerce on June 30, 2003, shall be transferred to the control or supervision of the department of environmental management on July 1, 2003.

(e) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the department of environmental management by this act.

(f) This SECTION expires June 30, 2004.

SECTION 71. [EFFECTIVE JULY 1, 2003] (a) The duties conferred on the department of commerce relating to tourism and community development are transferred to the department of tourism and community development, established by IC 4-4-3-2, as amended by this act, on July 1, 2003.

(b) The rules adopted by the department of commerce concerning tourism and community development before July 1, 2003, are considered, after June 30, 2003, rules of the department of tourism and community development until the department of tourism and community development adopts replacement rules.

(c) On July 1, 2003, the department of tourism and community development becomes the owner of all real and personal property relating to tourism promotion and community development of the department of commerce.

(d) Any fund relating to tourism and community development under the control or supervision of the department of commerce on June 30, 2003, shall be transferred to the control or supervision of the department of tourism and community development on July 1, 2003.

(e) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the department of tourism and community development by this act.

(f) This SECTION expires June 30, 2004.

SECTION 72. [EFFECTIVE JULY 1, 2003] (a) The duties conferred on the department of commerce relating to economic development in Indiana, except those relating to energy policy or tourism and community development, are transferred to the economic development corporation, established by IC 4-3-13.7, as added by this act, on July 1, 2003.

(b) The rules adopted by the department of commerce, except those related to energy policy and tourism and community development, before July 1, 2003, concerning the duties of the department of commerce are considered, after June 30, 2003, rules of the economic development corporation until the

corporation adopts replacement rules.

(c) On July 1, 2003, the Indiana economic development corporation becomes the owner of all real and personal property, except the real and personal property related to energy policy and tourism and community development, of the department of commerce.

(d) Any fund under the control or supervision of the department of commerce, except funds related to energy policy and tourism and community development, on June 30, 2003, is transferred to the control or supervision of the economic development corporation on July 1, 2003.

(e) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the economic development corporation by this act.

(f) This SECTION expires June 30, 2004."

Renummer all SECTIONS consecutively.

(Reference is to HB 2008 as printed February 26, 2003.)

BOSMA

Representative Pelath rose to a point of order, citing Rule 117.2, stating that the motion was not timely filed. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION (Amendment 2008-3)

Mr. Speaker: I move that House Bill 2008 be amended to read as follows:

Page 9, line 40, delete "ten" and insert "twenty-five".

Page 9, line 40, delete "(10%)" and insert "(25%)".

Page 10, line 2, reset in roman "fifteen".

Page 10, line 2, delete "ten".

Page 10, line 3, reset in roman "(15%)".

Page 10, line 3, delete "(10%)".

(Reference is to HB 2008 as printed February 26, 2003.)

TURNER

Upon request of Representatives Turner and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 275: yeas 47, nays 50. Motion failed.

HOUSE MOTION (Amendment 2008-17)

Mr. Speaker: I move that House Bill 2008 be amended to read as follows:

Page 52, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 29. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 26. Indiana Growth Scholars Tax Credit

Sec. 1. As used in this chapter, "eligible taxpayer" means an individual who satisfies the following requirements:

(1) The individual participated in the Indiana growth scholars program established under IC 20-12-20.3.

(2) The individual received provisional tax credits under the program described in subdivision (1).

(3) The individual graduated from a certified degree program (as defined in IC 20-12-20.3-1).

(4) The individual is employed in Indiana.

Sec. 2. As used in this chapter, "state income tax liability" means an individual's adjusted gross income tax liability under IC 6-3.

Sec. 3. (a) Beginning with the eligible taxpayer's first taxable year that begins after the date that the eligible taxpayer graduated from a certified degree program, an eligible taxpayer is entitled to a refundable credit against the eligible taxpayer's state income tax liability. The amount of the tax credit is equal to the amount of the provisional credit awarded to the eligible taxpayer in the academic year that corresponds to the number of taxable years following the eligible taxpayer's graduation as follows:

Taxable year following graduation	Academic year in the program
1st	1st
2nd	2nd
3rd	3rd
4th	4th

(b) If the amount of the credit under this chapter exceeds the eligible taxpayer's state tax liability for the taxable year, the excess shall be refunded to the eligible taxpayer.

Sec. 4. To obtain the credit provided by this chapter, an eligible taxpayer must file with the department information proving the amount of the provisional tax credits awarded to the eligible taxpayer as a student participating in the Indiana growth scholars program and any other information required by the department.

SECTION 2. IC 20-12-20.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 20.3. Indiana Growth Scholars Program

Sec. 1. As used in this chapter, "certified degree program" has the meaning set forth in IC 22-4.1-7-1.

Sec. 2. As used in this chapter, "commission" refers to the student assistance commission established by IC 20-12-21-4.

Sec. 3. As used in this chapter, "eligible employer" means an employer that provides employment to an eligible student in targeted employment (as defined in IC 22-4.1-7-6) through the internship component of a certified degree program under IC 22-4.1-7. The term includes the following:

- (1) A person (as defined in IC 6-3-1-14) acting as a sole proprietor.
- (2) A corporation (as defined in IC 6-3-1-10).
- (3) A partnership (as defined in IC 6-3-1-19).

Sec. 4. As used in this chapter, "eligible student" means a student (as defined in IC 22-4.1-7-5) who:

- (1) is enrolled full time as an undergraduate in a certified degree program through an institution of higher learning;
- (2) is an Indiana resident;
- (3) has achieved a Core 40 or an Academic Honors Diploma, or the equivalent of a Core 40 or an Academic Honors Diploma, as determined by the commission; and
- (4) has a cumulative high school grade point average of at least 3.0 on a 4.0 scale.

The commission may impose additional eligibility requirements, including requirements set forth in IC 20-12-21-6.

Sec. 5. As used in this chapter, "institution of higher learning" means:

- (1) a state educational institution (as defined in IC 20-12-0.5-1); or
- (2) a private institution of higher education (as defined in IC 20-12-63-3(10)).

Sec. 6. (a) The Indiana growth scholars program is established.

(b) The commission shall administer the program.

Sec. 7. The executive director of the commission may employ or contract for clerical and professional staff and administrative support necessary to implement this chapter.

Sec. 8. (a) The commission shall award a provisional tax credit to an eligible student who:

- (1) is enrolled in good standing in a certified degree program;
- (2) enters into an agreement with the commission under this chapter; and
- (3) complies with the requirements established under the rules of the commission.

(b) An eligible student may not claim a tax credit against the student's Indiana adjusted gross income tax under this chapter. However, proof of the provisional tax credit awarded under this chapter may be used to obtain a tax credit under IC 6-3.1-25 in a taxable year that begins after the eligible student graduates from a certified degree program and remains eligible for a tax credit under the requirements of IC 6-3.1-25.

Sec. 9. (a) The amount of a provisional tax credit awarded

under section 8 of this chapter may be up to four thousand dollars (\$4,000) per academic year.

(b) The commission may consider any of the following factors in determining the amount of the grant to award under section 8 of this chapter:

- (1) Whether an eligible student is enrolled in a certified degree program for less than a full academic year.
- (2) Whether a student receives additional aid from other state assistance programs.
- (3) Any other factor set forth in the rules of the commission.

Sec. 10. An eligible student must enter into an agreement with the commission to be eligible for a provisional tax credit under this chapter. The agreement must include the following requirements:

- (1) The eligible student must remain enrolled in good standing in a certified degree program during the academic year.
- (2) The eligible student must remain and be employed in Indiana after the student graduates from the certified degree program for a period of years equal to the number of years for which the student received a provisional tax credit under this chapter.

The agreement may include any other provisions that the commission considers necessary to administer this chapter.

Sec. 11. The commission shall enter into agreements with institutions of higher learning to implement this chapter.

Sec. 12. The commission may adopt rules under IC 4-22-2 that are necessary or appropriate to implement this chapter. The rules that are adopted under this chapter may include rules establishing different standards or procedures for resident and nonresident students."

Renumber all SECTIONS consecutively.

(Reference is to HB 2008 as printed February 26, 2003.)

ESPICH

Representative Pelath rose to a point of order, citing Rule 117.2, stating that the motion was not timely filed. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION (Amendment 2008-13)

Mr. Speaker: I move that House Bill 2008 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 1-1-3.5-5, AS AMENDED BY P.L.204-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 5. (a) The governor shall forward a copy of the executive order issued under section 3 of this chapter to:

- (1) the director of the Indiana state library;
- (2) the election division; and
- (3) the Indiana Register.

(b) The director of the Indiana state library, or an employee of the Indiana state library designated by the director to supervise a state data center established under IC 4-23-7.1, shall notify each state agency using population counts as a basis for the distribution of funds or services of the effective date of the tabulation of population or corrected population count.

(c) The agencies that the director of the Indiana state library must notify under subsection (b) include the following:

- (1) The auditor of state, for distribution of money from the following:
 - (A) The cigarette tax fund in accordance with IC 6-7-1-30.1.
 - (B) Excise tax revenue allocated under IC 7.1-4-7-8.
 - ~~(C) The local road and street account in accordance with IC 8-14-2-4.~~
 - ~~(D)~~ (C) The repayment of loans from the Indiana University permanent endowment funds under IC 21-7-4.
- (2) The board of trustees of Ivy Tech State College, for the board's division of Indiana into service regions under IC 20-12-61-9.

(3) The department of commerce, for the distribution of money from the following:

- (A) The rural development fund under IC 4-4-9.
- (B) The growth investment program fund under IC 4-4-20.
- (4) The division of disability, aging, and rehabilitative services, for establishing priorities for community residential facilities under IC 12-11-1.1 and IC 12-28-4-12.
- (5) The department of state revenue, for distribution of money from the motor vehicle highway account fund under IC 8-14-1-3.
- (6) The enterprise zone board, for the evaluation of enterprise zone applications under IC 4-4-6.1.
- (7) The alcohol and tobacco commission, for the issuance of permits under IC 7.1.
- (8) The Indiana library and historical board, for distribution of money to eligible public library districts under IC 4-23-7.1-29.
- (9) The state board of accounts, for calculating the state share of salaries paid under IC 33-13-12, IC 33-14-7, and IC 33-15-26."

Page 50, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 29. IC 6-1.1-18-5, AS AMENDED BY P.L.90-2002, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 5. (a) If the proper officers of a political subdivision desire to appropriate more money for a particular year than the amount prescribed in the budget for that year as finally determined under this article, they shall give notice of their proposed additional appropriation. The notice shall state the time and place at which a public hearing will be held on the proposal. The notice shall be given once in accordance with IC 5-3-1-2(b).

(b) If the additional appropriation by the political subdivision is made from a fund that receives:

- (1) distributions from the motor vehicle highway account established under IC 8-14-1-1; ~~or the local road and street account established under IC 8-14-2-4;~~ or
- (2) revenue from property taxes levied under IC 6-1.1;

the political subdivision must report the additional appropriation to the department of local government finance. If the additional appropriation is made from a fund described under this subsection, subsections (f), (g), (h), and (i) apply to the political subdivision.

(c) However, if the additional appropriation is not made from a fund described under subsection (b), subsections (f), (g), (h), and (i) do not apply to the political subdivision. Subsections (f), (g), (h), and (i) do not apply to an additional appropriation made from the cumulative bridge fund if the appropriation meets the requirements under IC 8-16-3-3(c).

(d) A political subdivision may make an additional appropriation without approval of the department of local government finance if the additional appropriation is made from a fund that is not described under subsection (b). However, the fiscal officer of the political subdivision shall report the additional appropriation to the department of local government finance.

(e) After the public hearing, the proper officers of the political subdivision shall file a certified copy of their final proposal and any other relevant information to the department of local government finance.

(f) When the department of local government finance receives a certified copy of a proposal for an additional appropriation under subsection (e), the department shall determine whether sufficient funds are available or will be available for the proposal. The determination shall be made in writing and sent to the political subdivision not more than fifteen (15) days after the department of local government finance receives the proposal.

(g) In making the determination under subsection (f), the department of local government finance shall limit the amount of the additional appropriation to revenues available, or to be made available, which have not been previously appropriated.

(h) If the department of local government finance disapproves an additional appropriation under subsection (f), the department shall specify the reason for its disapproval on the determination sent to the political subdivision.

(i) A political subdivision may request a reconsideration of a

determination of the department of local government finance under this section by filing a written request for reconsideration. A request for reconsideration must:

- (1) be filed with the department of local government finance within fifteen (15) days of the receipt of the determination by the political subdivision; and
- (2) state with reasonable specificity the reason for the request.

The department of local government finance must act on a request for reconsideration within fifteen (15) days of receiving the request."

Page 52, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 31. IC 6-6-1.1-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 103. As used in this chapter:

- (a) "Administrator" means the administrative head of the department of state revenue or the administrator's designee.
- (b) "Dealer" means a person, except a distributor, engaged in the business of selling gasoline in Indiana.
- (c) "Department" means the department of state revenue.
- (d) "Distributor" means a person who first receives gasoline in Indiana. However, "distributor" does not include the United States or any of its agencies unless their inclusion is permitted under the Constitution and laws of the United States.
- (e) "Licensed distributor" means a person holding a valid distributor's license issued by the administrator.
- (f) "Marine facility" means a marina or boat livery.
- (g) "Gasoline" means:

- (1) all products commonly or commercially known or sold as gasoline, including casinghead and absorption or natural gasoline, regardless of their classifications or uses; and
- (2) any liquid, which when subjected to distillation of gasoline, naphtha, kerosene, and similar petroleum products with American Society for Testing Materials Designation D-86, shows not less than ten percent (10%) distilled (recovered) below three hundred forty-seven degrees Fahrenheit (347 degrees F) or one hundred seventy-five degrees Centigrade (175 degrees C), and not less than ninety-five percent (95%) distilled (recovered) below four hundred sixty-four degrees Fahrenheit (464 degrees F) or two hundred forty degrees Centigrade (240 degrees C).

However, the term "gasoline" does not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit (60 degrees F) or sixteen degrees Centigrade (16 degrees C), and a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute, or denatured, wood, or ethyl alcohol, ether, turpentine, or acetates, unless such product is used as an additive in the manufacture, compounding, or blending of a liquid within subdivision (2), in which event only the quantity so used is considered gasoline. In addition, "gasoline" does not include those liquids which meet the specifications of subdivision (2) but which are especially designated for use other than as a fuel for internal combustion engines.

(h) "Motor vehicle" means a vehicle, except a vehicle operated on rails, which is propelled by an internal combustion engine or motor and is designed to permit its mobile use on public highways.

(i) "Person" means a natural person, partnership, firm, association, corporation, limited liability company, representative appointed by a court, or the state or its political subdivisions.

(j) "Public highway" means the entire width between boundary lines of every publicly maintained way in Indiana including streets and alleys in cities and towns when any part of the way is open to public use for vehicle travel.

(k) "Taxable marine facility" means a marine facility located on an Indiana lake.

(l) "Taxicab" means a motor vehicle which is:

- (1) designed to carry not more than seven (7) individuals, including the driver;
- (2) held out to the public for hire at a fare regulated by municipal ordinance and based upon length of trips or time

- consumed;
- (3) not operated over a definite route; and
- (4) a part of a commercial enterprise in the business of providing taxicab service.
- (m) "Terminal" means a marine or pipeline gasoline facility.
- (n) "Metered pump" means a stationary pump having a meter that is capable of measuring the amount of gasoline dispensed through it.
- (o) "Billed gallons" means the gallons indicated on an invoice for payment to a supplier.
- (p) "Export" for gasoline and fuels taxed in the same manner as gasoline under the origin state's statutes means the sale for export and delivery out of a state by or for the seller that is:
 - (1) an export by the seller in the origin state; and
 - (2) an import by the seller in the destination state.
- (q) "Import" for gasoline and fuels taxed in the same manner as gasoline under the origin state's statutes means the purchase for export and transportation out of a state by or for the purchaser that is:
 - (1) an export by the purchaser in the origin state; and
 - (2) an import by the purchaser in the destination state.
- (r) "Rack" means a dock, platform, or open bay:
 - (1) located at a refinery or terminal; and
 - (2) having a system of metered pipes and hoses to load fuel into a tank wagon or tank transport.
- (s) "Eligible unit" means a:
 - (1) county that has adopted the county motor vehicle excise surtax (IC 6-3.5-4) and the county wheel tax (IC 6-3.5-5); or
 - (2) city or town located in a county that has adopted the county motor vehicle excise surtax (IC 6-3.5-4) and the county wheel tax (IC 6-3.5-5).

SECTION 32. IC 6-6-1.1-201, AS AMENDED BY P.L.192-2002(ss), SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 201. (a) Before January 1, 2004, a license tax of eighteen cents (\$0.18) per gallon is imposed on the use of all gasoline used in Indiana, except as otherwise provided by this chapter.

(b) After December 31, 2003, and before January 1, 2005, a cents per mile license tax of one and seventeen hundredths cents (\$0.017) is imposed on the use of all gasoline used in Indiana, except as otherwise provided by this chapter. The cents per mile license tax is converted annually to a per gallon rate as provided in section 201.2 of this chapter.

(c) After December 31, 2004, a cents per mile license tax of one and twenty-nine hundredths cents (\$0.0129) is imposed on the use of all gasoline used in Indiana, except as otherwise provided by this chapter. The cents per mile license tax is converted annually to a per gallon rate as provided in section 201.2 of this chapter.

(d) The distributor shall initially pay the tax on the billed gallonage of all gasoline the distributor receives in this state, less any deductions authorized by this chapter. The distributor shall then add the per gallon amount of tax to the selling price of each gallon of gasoline sold in this state and collected from the purchaser so that the ultimate consumer bears the burden of the tax.

SECTION 33. IC 6-6-1.1-201.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 201.2. (a) As used in this section, "motor fuel" has the meaning set forth in IC 6-6-4.1-1(g).

(b) As used in this section, "CPI" refers to the United States Bureau of Labor Statistics Consumer Price Index, all items, all urban consumers, or its successor index.

(c) The per gallon conversion of the cents per mile license tax imposed under section 201 of this chapter is the amount determined in STEP SEVEN of the following formula, rounded to the nearest one-tenth cent (\$0.001):

STEP ONE: Divide:

(A) the Indiana motor vehicle miles of travel (VMT) for the calendar year immediately preceding the calendar year in which the new per gallon conversion rate must be

published under subsection (d), as reported by the United States Federal Highway Administration; by (B) the certified taxable gallons of motor fuel for the calendar year immediately preceding the calendar year in which the new per gallon conversion rate must be published under subsection (d), as reported by the department;

to determine the current average miles per gallon (AMPG). STEP TWO: Multiply the AMPG calculated under STEP ONE by the cents per mile license tax imposed under section 201 of this chapter.

STEP THREE: For calendar years 2004 and 2005, determine the percentage change between the CPI as last reported for calendar year 2001 and the CPI as last reported for the previous calendar year. For calendar year 2006 and each calendar year thereafter, determine the percentage change between the CPI as last reported for calendar year 2003 and the CPI as last reported for the previous calendar year.

STEP FOUR: Express the percentage change determined in STEP THREE as a three (3) digit decimal rounded to the nearest thousandth.

STEP FIVE: Add one (1) to the decimal determined in STEP FOUR.

STEP SIX: Multiply the STEP TWO amount by the sum determined in STEP FIVE.

STEP SEVEN: For calendar year 2004, determine the lesser of the STEP SIX amount or twenty cents (\$0.20). For calendar year 2005, determine the lesser of the STEP SIX amount or twenty-two cents (\$0.22). For calendar years beginning after December 31, 2005, determine the greater of:

(A) the STEP SIX result; or

(B) the amount determined under this subsection for the previous calendar year.

(d) Not later than November 1 of each year, the department shall:

(1) publish the annual tax rate in effect for the following calendar year in the Indiana Register; and

(2) widely disseminate information concerning the applicability of the per gallon conversion rate.

(e) Not later than November 1 of each year, the department shall publish in the Indiana Register and widely disseminate information concerning:

(1) the certified taxable gallons of fuel; and

(2) the Indiana vehicle miles of travel;

used in the calculation of the per gallon conversion rate under subsection (c).

SECTION 34. IC 6-6-1.1-502 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 502. (a) Except as provided in subsection (b), at the time of filing each monthly report, each distributor shall pay to the administrator the full amount of tax due under this chapter for the preceding calendar month, computed as follows:

(1) Enter the total number of invoiced gallons of gasoline received during the preceding calendar month.

(2) Subtract the number of gallons for which deductions are provided by sections 701 through 705 of this chapter from the number of gallons entered under subdivision (1).

(3) Subtract the number of gallons reported under section 501(3) of this chapter.

(4) Multiply the number of invoiced gallons remaining after making the computation in subdivisions (2) and (3) by the tax rate prescribed by section 201 of this chapter (with respect to gasoline received before January 1, 2004) or the tax rate determined under section 201.2 of this chapter (with respect to gasoline received after December 31, 2003) to compute that part of the gasoline tax to be deposited in the highway, road and street fund under section 802(2) of this chapter or in the motor fuel tax fund under section 802(3) of this chapter.

(5) Multiply the number of gallons subtracted under

subdivision (3) by the tax rate prescribed by section 201 of this chapter **(with respect to gasoline received before January 1, 2004) or the tax rate determined under section 201.2 of this chapter (with respect to gasoline received after December 31, 2003)** to compute that part of the gasoline tax to be deposited in the fish and wildlife fund under section 802(1) of this chapter.

(b) If the department determines that a distributor's:

- (1) estimated monthly gasoline tax liability for the current year; or
- (2) average monthly gasoline tax liability for the preceding year;

exceeds ten thousand dollars (\$10,000), the distributor shall pay the monthly gasoline taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

SECTION 35. IC 6-6-1.1-606.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 606.6. (a) Except as provided in subsection (c), every person included within the terms of section 606(a) of this chapter who transports gasoline in a vehicle on the highways of Indiana in a vehicle having a total tank capacity of less than eight hundred fifty (850) gallons is liable to the state for a penalty equal to the rate provided in section ~~201~~ **201.2** of this chapter on all gasoline transported into Indiana and delivered to any person other than a licensed distributor.

(b) Except as provided in subsection (c), every person included within the terms of section 606(c) of this chapter who transports gasoline in a vehicle on the highways of Indiana is liable to the state for a penalty equal to the rate provided in section ~~201~~ **201.2** of this chapter on all gasoline:

- (1) received by the person for transportation to a point outside Indiana;
- (2) not ~~in fact~~ transported to a point outside Indiana; and
- (3) ~~in fact~~ delivered to a person other than a licensed distributor inside Indiana.

(c) The following are excluded when computing any liability under this section:

- (1) All deliveries of gasoline when the tax imposed by law was charged or collected by the parties under the circumstances described in this section.
- (2) Deliveries of gasoline used in computing the tax under section 301 of this chapter.

SECTION 36. IC 6-6-1.1-801.5, AS AMENDED BY P.L.192-2002(ss), SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 801.5. (a) **Before January 1, 2004**, the administrator shall transfer one-ninth (1/9) of the taxes that are collected under this chapter to the state highway road construction and improvement fund. **After December 31, 2003, the administrator shall transfer the amount determined under subsection (h) to the state highway road construction and improvement fund.**

(b) **Before January 1, 2004**, the administrator shall transfer one-eighteenth (1/18) of the taxes that are collected under this chapter to the state highway fund.

(c) **After December 31, 2003, and before January 1, 2005, the administrator shall transfer the amount determined under subsection (i) to the state highway fund.**

(d) **After December 31, 2004, the administrator shall transfer the amount determined under subsection (j) to the state highway fund.**

(e) **Before January 1, 2004**, the administrator shall transfer one-eighteenth (1/18) of the taxes that are collected under this chapter to the auditor of state for distribution to counties, cities, and towns. The auditor of state shall distribute the amounts transferred under this subsection to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1. Money distributed under this subsection may be used only for purposes that money distributed

from the motor vehicle highway account may be expended under IC 8-14-1.

(f) **After December 31, 2003, and before January 1, 2005, the administrator shall transfer the amount of the taxes collected under this chapter that is determined in the last of the following STEPS to the motor vehicle highway account for distribution under IC 8-14-1-3(a):**

STEP ONE: Determine the amount of the taxes collected under this chapter.

STEP TWO: Determine the tax rate determined under section 201.2 of this chapter.

STEP THREE: Multiply the STEP TWO result by one hundred (100).

STEP FOUR: Express a fraction, with two (2) being the numerator and the STEP THREE result being the denominator.

STEP FIVE: Multiply the STEP FOUR result by the STEP ONE result.

(g) **After December 31, 2004, the administrator shall transfer the amount of the taxes collected under this chapter that is determined in the last of the following STEPS to the motor vehicle highway account for distribution under IC 8-14-1-3(a):**

STEP ONE: Determine the amount of the taxes collected under this chapter.

STEP TWO: Determine the tax rate determined under section 201.2 of this chapter.

STEP THREE: Multiply the STEP TWO result by one hundred (100).

STEP FOUR: Express as a fraction, with three (3) being the numerator and the STEP THREE result being the denominator.

STEP FIVE: Multiply the STEP FOUR result by the STEP ONE result.

(h) **The amount of the transfer required under subsection (a) after December 31, 2003, is the amount determined in the last of the following STEPS:**

STEP ONE: Determine the amount of the taxes collected under this chapter.

STEP TWO: Determine the tax rate determined under section 201.2 of this chapter.

STEP THREE: Multiply the STEP TWO result by one hundred (100).

STEP FOUR: Express as a fraction, with two (2) being the numerator and the STEP THREE result being the denominator.

STEP FIVE: Multiply the STEP FOUR result by the STEP ONE result.

(i) **The amount of the transfers required under subsection (c) after December 31, 2003, and before January 1, 2005, is the amount determined in the last of the following STEPS:**

STEP ONE: Determine the amount of the taxes collected under this chapter.

STEP TWO: Determine the tax rate determined under section 201.2 of this chapter.

STEP THREE: Multiply the STEP TWO result by one hundred (100).

STEP FOUR: Express as a fraction, with two (2) being the numerator and the STEP THREE result being the denominator.

STEP FIVE: Multiply the STEP FOUR result by the STEP ONE result.

(j) **The amount of the transfer required under subsection (d) after December 31, 2004, is the amount determined in the last of the following STEPS:**

STEP ONE: Determine the amount of the taxes collected under this chapter.

STEP TWO: Determine the tax rate determined under section 201.2 of this chapter.

STEP THREE: Multiply the STEP TWO result by one hundred (100).

STEP FOUR: Express as a fraction, with three (3) being the numerator and the STEP THREE result being the

denominator.

STEP FIVE: Multiply the STEP FOUR result by the STEP ONE result.

(~~d~~) (k) After the transfers required by subsections (a) through (~~e~~), (g), the administrator shall transfer the next twenty-five million dollars (\$25,000,000) of the taxes that are collected under this chapter and received during a period beginning July 1 of a year and ending June 30 of the immediately succeeding year to the auditor of state for distribution in the following manner:

(1) thirty percent (30%) to each of the counties, cities, and towns eligible to receive a distribution from the local road and street account under IC 8-14-2 and in the same proportion among the counties, cities, and towns as funds are distributed under IC 8-14-2-4;

(2) thirty percent (30%) (1) Sixty percent (60%) to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account established under IC 8-14-1 for distribution to the counties, cities, and towns under IC 8-14-1-3(a), and

(~~3~~) (2) Forty percent (40%) to the Indiana department of transportation.

(~~e~~) (l) The auditor of state shall hold all amounts of collections received under subsection (~~d~~) (k) from the administrator that are made during a particular month and shall distribute all of those amounts pursuant to subsection (~~d~~) (k) on the fifth day of the immediately succeeding month.

(f) All amounts distributed under subsection (d) may only be used for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

SECTION 37. IC 6-6-1.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 1.7. Supplemental Gasoline Tax

Sec. 1. The definitions and rules of construction contained in IC 6-6-1.1-103 and IC 6-6-1.1-104 apply throughout this chapter unless the context clearly requires otherwise.

Sec. 2. Before May 1, the department shall determine annually whether the federal gasoline tax has been reduced below the per gallon rate imposed on January 1, 2003.

Sec. 3. (a) If the federal gasoline tax is reduced below the per gallon rate imposed on January 1, 2003, a supplemental gasoline tax is imposed on the use of all gasoline used in Indiana, except as otherwise provided by this chapter.

(b) The amount of the tax per gallon is:

(1) the per gallon rate of the federal gasoline tax imposed on May 1; minus

(2) the per gallon rate of the federal gasoline tax imposed on January 1, 2003.

(c) The distributor initially shall pay the tax on the billed gallonage of all gasoline the distributor receives in Indiana, less any deductions authorized by this chapter. The distributor shall then add the per gallon amount of tax to the selling price of each gallon of gasoline sold in Indiana and collected from the purchaser so that the ultimate consumer bears the burden of the tax.

Sec. 4. The per gallon tax rate imposed under section 3 of this chapter takes effect on July 1 following the department's determination that the federal gasoline tax has been reduced below the per gallon rate imposed on January 1, 2003.

Sec. 5. The supplemental gasoline tax shall be collected and administered in the same manner as the gasoline tax imposed under IC 6-6-1.1.

Sec. 6. All allowances, deductions, and exemptions allowed with respect to the gasoline tax apply to the supplemental gasoline tax imposed under this chapter.

Sec. 7. The administrator shall transfer the taxes collected under this chapter as follows:

(1) Seventy-five percent (75%) to the state highway fund.

(2) Twenty-five percent (25%) to the auditor of state for distribution to each of the counties, cities, and towns

eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1-3(b).

The auditor of state shall distribute the amounts transferred under subdivision (2) in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1-3(b). Money distributed under subdivision (2) may be used only for purposes that money distributed from the motor vehicle highway account may be used under IC 8-14-1-3(b).

Sec. 8. The per gallon tax rate of the supplemental gasoline tax imposed under this chapter shall be adjusted annually to reflect changes to the per gallon rate of the federal gasoline tax.

Sec. 9. If the department determines on May 1 of a state fiscal year in which the supplemental gasoline tax is imposed under this chapter that the per gallon tax rate of the federal gasoline tax is equal to or greater than the per gallon tax rate of the federal gasoline tax imposed on January 1, 2003, the supplemental gasoline tax may not be imposed in the following state fiscal year.

Sec. 10. The department may adopt rules to implement this chapter.

SECTION 38. IC 6-6-2.5-68 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 68. (a) The administrator shall transfer the next twenty-five million dollars (\$25,000,000) of the taxes that are collected under this chapter and received during a period beginning July 1 of a year and ending June 30 of the immediately succeeding year to the auditor of state for distribution in the following manner:

(1) Thirty percent (30%) to each of the counties, cities, and towns eligible to receive a distribution from the local road and street account under IC 8-14-2 and in the same proportion among the counties, cities, and towns as funds are distributed under IC 8-14-2-4;

(2) Thirty percent (30%) (1) Sixty percent (60%) to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account established under IC 8-14-1 for distribution to the counties, cities, and towns under IC 8-14-1-3(a).

(~~3~~) (2) Forty percent (40%) to the Indiana department of transportation.

(b) The auditor of state shall hold all amounts of collections received from the administrator that are made during a particular month and shall distribute all of those amounts under subsection (a) on the fifth day of the immediately succeeding month.

(c) All amounts distributed under subsection (a) may only be used for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

(d) All revenue collected under this chapter shall be used in the same manner as the revenue collected under IC 6-6-1.1. The administrator shall, after the transfers specified in subsection (a), deposit the remainder of the revenues collected under this chapter in the same manner that revenues are deposited under IC 6-6-1.1-802.

SECTION 39. IC 6-8-1-1-1, AS AMENDED BY P.L.192-2002(ss), SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed); the utility receipts tax (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the supplemental gasoline tax (IC 6-6-1.7); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8-1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise

tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various county food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer."

Page 75, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 72. IC 8-14-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 3. **(a) The gasoline taxes and special fuel taxes deposited in the motor vehicle highway account fund under IC 6-6-1.1-801.5 and IC 6-6-2.5-68, respectively, shall be allocated and distributed as follows:**

- (1) First, to make monthly distributions to the counties, cities, and towns in the amounts determined under subsection (c).**
- (2) Second, to make monthly distributions to eligible units in the amounts determined under subsection (d) or (e).**
- (3) Third, to distribute the remainder, if any, to the counties, cities, and towns eligible to receive a distribution under subsection (b) in the same proportion among the counties, cities, and towns as funds are distributed under subsection (b).**

However, if insufficient revenue is available to fully fund the distributions required under subdivision (2), the amounts determined in subsections (d) and (e) for distribution to each eligible unit under subdivision (2) must be reduced proportionately.

(b) The money collected for the motor vehicle highway account fund and remaining after **making the distributions required under subsection (a)**, refunds, and the payment of all expenses incurred in the collection thereof, and after the deduction of the amount appropriated to the department for traffic safety and after the deduction of one-half (½) of the amount appropriated for the state police department, shall be allocated to and distributed among the department and subdivisions designated as follows:

(1) Of the net amount in the motor vehicle highway account the auditor of state shall set aside for the cities and towns of the state fifteen percent (15%) thereof. This sum shall be allocated to the cities and towns upon the basis that the population of each city and town bears to the total population of all the cities and towns and shall be used for the construction or reconstruction and maintenance of streets and alleys and shall be annually budgeted as now provided by law. However, no part of such sum shall be used for any other purpose than for the purposes defined in this chapter. If any funds allocated to any city or town shall be used by any officer or officers of such city or town for any purpose or purposes other than for the purposes as defined in this chapter, such officer or officers shall be liable upon their official bonds to such city or town in such amount so used for other purposes than for the purposes as defined in this chapter, together with the costs of said action and reasonable attorney fees, recoverable in an action or suit instituted in the name of the state of Indiana on the relation of any taxpayer or taxpayers resident of such city or town. A monthly distribution thereof of funds accumulated during the preceding month shall be made by the auditor of state.

(2) Of the net amount in the motor vehicle highway account, the auditor of state shall set aside for the counties of the state thirty-two percent (32%) thereof. However, as to the allocation to cities and towns under subdivision (1), and as to the allocation to counties under this subdivision in the event that the amount in the motor vehicle highway account fund

remaining after refunds and the payment of all expenses incurred in the collection thereof and after deduction of any amount appropriated by the general assembly for public safety and policing shall be less than twenty-two million six hundred and fifty thousand dollars (\$22,650,000), in any fiscal year then the amount so set aside in the next calendar year for distributions to counties shall be reduced fifty-four percent (54%) of such deficit and the amount so set aside for distribution in the next calendar year to cities and towns shall be reduced thirteen percent (13%) of such deficit. Such reduced distributions shall begin with the distribution January 1 of each year.

(3) The amount set aside for the counties of the state under the provisions of subdivision (2) shall be allocated monthly upon the following basis:

(A) Five percent (5%) of the amount allocated to the counties to be divided equally among the ninety-two (92) counties.

(B) Sixty-five percent (65%) of the amount allocated to the counties to be divided on the basis of the ratio of the actual miles, now traveled and in use, of county roads in each county to the total mileage of county roads in the state, which shall be annually determined, accurately, by the department.

(C) Thirty percent (30%) of the amount allocated to the counties to be divided on the basis of the ratio of the motor vehicle registrations of each county to the total motor vehicle registration of the state.

All money so distributed to the several counties of the state shall constitute a special road fund for each of the respective counties and shall be under the exclusive supervision and direction of the board of county commissioners in the construction, reconstruction, maintenance, or repair of the county highways or bridges on such county highways within such county.

(4) Each month the remainder of the net amount in the motor vehicle highway account shall be credited to the state highway fund for the use of the department.

(5) Money in the fund may not be used for any toll road or toll bridge project.

(6) Notwithstanding any other provisions of this section, money in the motor vehicle highway account fund may be appropriated to the Indiana department of transportation from the forty-seven percent (47%) distributed to the political subdivisions of the state to pay the costs incurred by the department in providing services to those subdivisions.

(7) Notwithstanding any other provisions of this section or of IC 8-14-8, for the purpose of maintaining a sufficient working balance in accounts established primarily to facilitate the matching of federal and local money for highway projects, money may be appropriated to the Indiana department of transportation as follows:

(A) One-half (½) from the forty-seven percent (47%) set aside under subdivisions (1) and (2) for counties and for those cities and towns with a population greater than five thousand (5,000).

(B) One-half (½) from the distressed road fund under IC 8-14-8.

(c) After December 31, 2003, each county, city, or town eligible to receive a distribution from the motor vehicle highway account under this chapter is entitled to a monthly distribution under subsection (a)(1) equal to:

(1) the total amount distributed to the county, city, or town in 2003 from the motor vehicle highway account and the local road and street account; divided by

(2) twelve (12).

(d) This subsection does not apply to an eligible unit that did not receive county wheel taxes and county motor vehicle excise surtaxes in the previous calendar year. After December 31, 2003, an eligible unit is entitled to receive a monthly distribution under subsection (a)(2) equal to:

(1) the total amount of county wheel taxes and county

motor vehicle excise surtaxes distributed to the eligible unit in the previous year; divided by

(2) twelve (12).

(e) This subsection applies only to an eligible unit that did not receive county wheel taxes and county motor vehicle excise surtaxes in the previous year. The bureau of motor vehicles shall estimate the amount of county wheel taxes and county motor vehicle excise surtaxes that the eligible unit will receive in the first year that the county wheel taxes and county motor vehicle excise taxes are collected in the eligible unit's county and certify the estimated amount to the auditor of state. The eligible unit is entitled to a monthly distribution under subsection (a)(2) equal to:

(1) the certified amount of estimated county wheel taxes and county motor vehicle excise surtaxes; divided by

(2) twelve (12).

SECTION 73. IC 8-14-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. (a) The funds allocated to the respective counties of the state from the motor vehicle highway account shall annually be budgeted as provided by law, and, when distributed shall be used for **engineering, land acquisition, construction, resurfacing, restoration, rehabilitation, reconstruction, and maintenance** of the highways of the respective counties, including highways which traverse the streets of incorporated towns, the cost of the repair and maintenance of which prior to the tenth day of September, 1932, was paid from the county gravel road repair fund excepting where the department is charged by law with the maintenance or construction of any such highway so traversing such streets. Any surplus existing in the funds at the end of the year shall thereafter continue as a part of the highway funds of the said counties and shall be rebudgeted and used as already provided in this chapter. The purchase, rental and repair of highway equipment, painting of bridges and acquisition of grounds for erection and construction of storage buildings, acquisition of rights of way and the purchase of fuel oil, and supplies necessary to the performance of construction, reconstruction and maintenance of highways, shall be paid out of the highway account of the various counties.

(b) **At least twenty-five percent (25%) of the money distributed to a county under this chapter must be used for engineering, land acquisition, construction, resurfacing, restoration, and rehabilitation of highway facilities.**

SECTION 74. IC 8-14-1-5, AS AMENDED BY P.L.61-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 5. (a) All funds allocated to cities and towns from the motor vehicle highway account shall be used by the cities and towns for the construction, reconstruction, repair, maintenance, oiling, sprinkling, snow removal, weed and tree cutting and cleaning of their highways as herein defined, and including also any curbs, and the city's or town's share of the cost of the separation of the grades of crossing of public highways and railroads, the purchase or lease of highway construction and maintenance equipment, the purchase, erection, operation and maintenance of traffic signs and signals, and safety zones and devices; and the painting of structures, objects, surfaces in highways for purposes of safety and traffic regulation. All of such funds shall be budgeted as provided by law.

(b) In addition to purposes for which funds may be expended under subsections (a) and (c) of this section, monies allocated to cities and towns under this chapter may be expended for law enforcement purposes, subject to the following limitations:

(1) For cities and towns with a population of less than five thousand (5,000), no more than fifteen percent (15%) may be spent for law enforcement purposes.

(2) For cities and towns other than those specified in subdivision (1) of this subsection, no more than ten percent (10%) may be spent for law enforcement purposes.

(c) In addition to purposes for which funds may be expended under subsections (a) and (b) of this section, monies allocated to cities and towns under this chapter may be expended for the payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects.

(d) **At least twenty-five percent (25%) of the money distributed to a city or town under this chapter must be used for engineering, land acquisition, construction, resurfacing, restoration, and rehabilitation of highway facilities.**

SECTION 75. IC 8-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. As used in this chapter:

(1) Primary highway system special account means the account of the state known as the "primary highway system special account" to which is credited monthly fifty-five percent (55%) of the money deposited in the highway, road and street fund.

(2) Local road and street account means the account of the state known as the "local road and street account" to which is credited monthly forty-five percent (45%) of the money deposited in the highway, road, and street fund.

(3) (2) The term "department" refers to the Indiana department of transportation created under IC 8-23-2.

(4) (3) The term "primary highways" shall mean that portion of the federal-aid highway system designated by the department and approved by the United States department of transportation as being the state "primary highway system".

(5) (4) The term "construction" shall mean both construction and reconstruction to a degree that new, supplementary, or substantially improved traffic service is provided, and significant geometric or structural improvements are effected.

(6) (5) "Arterial road system" shall mean the system of roads including bridges in each county of Indiana, under the jurisdiction of the board of county commissioners, or successor body, including a department of transportation of a consolidated city, designated as such by the board under IC 8-23-4-3, but not including local county roads.

(7) (6) "Local county roads" shall mean all county roads and bridges which are not designated as being in the arterial road system.

(8) (7) "Arterial street system" means the system of streets, including bridges in each city or town in Indiana, under the jurisdiction of municipal street authorities or successor bodies, including a department of transportation of a consolidated city, designated as such by the board under IC 8-23-4-4, but not including local streets.

(9) (8) "Local streets" shall mean all city and town streets and bridges which are not designated as being in the arterial street system in each city or town.

(10) (9) "Resurfacing" means the placement of additional pavement layers (including protective systems for bridge decks) over the existing (or restored or rehabilitated) roadway or bridge deck surface to provide additional strength or to improve serviceability for a substantial time period.

(11) (10) "Restoration and rehabilitation" means work required to return the existing structure (roadway pavement or bridge deck) to a suitable condition for an additional stage of construction (bridge deck protective system or resurfacing) or to a suitable condition to perform satisfactorily for a substantial time period.

SECTION 76. IC 8-14-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 3. (a) The auditor of state shall credit the state highway fund established under IC 8-23-9-54 monthly with fifty-five percent (55%) of the money deposited in the highway, road and street fund.

(b) Funds allocated to the department under this chapter must be appropriated.

(c) **Beginning January 1, 2004, the auditor of state shall credit the motor vehicle highway account established under IC 8-14-1 with forty-five percent (45%) of the money deposited in the highway, road and street fund. The amount credited to the motor vehicle highway account under this subsection must be used to make the distributions required under IC 8-14-1-3(a).**

SECTION 77. IC 8-18-22-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 6. (a) Except as provided in subsection (b), the county fiscal body may pledge revenues for the payment of principal and interest on the bonds and for other purposes under the ordinance as provided by IC 5-1-14-4,

including revenues from the following sources:

- (1) The motor vehicle highway account.
- ~~(2) The local road and street account.~~
- ~~(3) (2)~~ The county motor vehicle excise surtax.
- ~~(4) (3)~~ The county wheel tax.
- ~~(5) (4)~~ The county adjusted gross income tax.
- ~~(6) (5)~~ The county option income tax.
- ~~(7) (6)~~ The economic development income tax.
- ~~(8) (7)~~ Assessments.
- ~~(9) (8)~~ Any other unappropriated or unencumbered money.

(b) The county fiscal body may not pledge to levy ad valorem property taxes for these purposes, except for revenues from the following:

- (1) IC 8-16-3.
- (2) IC 8-16-3.1.

(c) If the county fiscal body has pledged revenues from the county option income tax as set forth in subsection (a), the county income tax council (as defined in IC 6-3.5-6-1) may covenant that the council will not repeal or modify the tax in a manner that would adversely affect owners of outstanding bonds issued under this chapter. The county income tax council may make the covenant by adopting an ordinance using procedures described in IC 6-3.5-6.

(d) If the county fiscal body has pledged revenues from the economic development income tax as set forth in subsection (a), the county income tax council (if the council is the body that imposed the tax) may covenant that the council will not repeal or modify the tax in a manner that would adversely affect owners of outstanding bonds issued under this chapter. The county income tax council may make the covenant by adopting an ordinance using procedures described in IC 6-3.5-6."

Page 80, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 78. IC 36-1-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 9. (a) This section may be used only for an agreement between an Indiana municipality and the executive of the county in which it is located concerning highway construction and maintenance and related matters.

(b) An agreement under this section must provide for the following:

- (1) Its duration, which may not be more than four (4) years.
- (2) The specific functions and services to be performed or furnished by the county on behalf of the municipality.

In addition, such an agreement may provide for any other appropriate matters.

(c) An agreement under this section may provide for either of the following:

- (1) A stipulation that distributions from the motor vehicle highway account under IC 8-14-1 ~~the local road and street account under IC 8-14-2, or both~~, be made to the county rather than to the municipality.
- (2) A stipulation that the municipality will appropriate a specified part of those distributions for purposes listed in the agreement.

SECTION 79. IC 36-5-4-13, AS AMENDED BY P.L.170-2002, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 13. (a) Except as provided in subsection (c), this subsection applies to a town with a population of five hundred (500) or less. Notwithstanding the provisions of any other statute, a town may transfer money from any town fund to another town fund after the passage of an ordinance or a resolution by the town legislative body specifying the:

- (1) amount of the transfer;
- (2) funds involved;
- (3) date of the transfer; and
- (4) general purpose of the transfer.

(b) Except as provided in subsection (c), this subsection applies to a town having a population of more than five hundred (500) but less than two thousand (2,000). Notwithstanding IC 8-14-1, ~~and IC 8-14-2~~, a town may transfer money distributed to the town from

- ~~(1) the motor vehicle highway account under IC 8-14-1~~
- ~~(2) the local road and street account under IC 8-14-2; or~~

~~(3) the:~~

- ~~(A) motor vehicle highway account under IC 8-14-1; and~~
- ~~(B) local road and street account under IC 8-14-2;~~

to any other town fund after the passage of an ordinance or a resolution by the town legislative body that specifies the amount of the transfer, the funds involved, the date of the transfer, and the general purpose of the transfer. However, the total amount of all money transferred by a town under this subsection may not exceed forty thousand dollars (\$40,000).

(c) A:

- (1) municipality located in a county having a population of more than fourteen thousand nine hundred (14,900) but less than sixteen thousand (16,000); and
- (2) town:

- (A) located in a county having a population of more than thirty-four thousand nine hundred (34,900) but less than thirty-four thousand nine hundred fifty (34,950); and
- (B) having a population of less than one thousand (1,000);

may not transfer money under this section to or from a food and beverage tax receipts fund established under IC 6-9."

Page 82, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 82. IC 8-14-2-4 IS REPEALED [EFFECTIVE JANUARY 1, 2004].

SECTION 83. [EFFECTIVE JULY 1, 2003] (a) The department of state revenue, before November 1, 2003, shall publish in the Indiana Register the per gallon conversion rate determined under IC 6-6-1.1-201.2, as added by this act, that is applicable for the calendar year beginning January 1, 2004.

(b) IC 6-6-1.1-606.6, as amended by this act, applies to gasoline used after December 31, 2003.

(c) This SECTION expires January 1, 2005."

Renumber all SECTIONS consecutively.

(Reference is to HB 2008 as printed February 26, 2003.)

SCHOLER

Representative Pelath rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 2008 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

House Bill 2009

Representative Crawford called down House Bill 2009 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 2009-4)

Mr. Speaker: I move that House Bill 2009 be amended to read as follows:

Page 9, line 12, delete, "8,000,000 8,000,000" and insert "**20,000,000 20,000,000**".

Page 9, delete lines 13 through 18, begin a new line double block indented and insert:

"If the amount of money in the Indiana tobacco master settlement agreement fund is insufficient to allow for funding the \$20,000,000 appropriation for the Indiana prescription drug program in either year of the biennium, an amount sufficient to provide for a total appropriation and expenditure of \$20,000,000 each year of the biennium is appropriated from the state general fund and must be allotted and used for the Indiana prescription drug program."

(Reference is to HB 2009 as printed February 26, 2003.)

BECKER

Upon request of Representatives Becker and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 276: yeas 48, nays 50. Motion failed. The bill was ordered engrossed.

House Bill 2005

Representative Frenz called down House Bill 2005 for second

reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 2005-8)

Mr. Speaker: I move that House Bill 2005 be amended to read as follows:

Page 1, line 2, delete "Except as".

Page 1, line 3, delete "provided in IC 6-1.1-8.8,".

Page 1, line 3, strike "if" and insert "If".

Page 1, delete lines 14 through 16.

Page 2, delete lines 1 through 36.

Page 2, before line 37, begin a new paragraph and insert the following:

"SECTION 2. IC 6-1.1-10-16, AS AMENDED BY P.L.198-2001, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2002 (RETROACTIVE)]: Sec. 16. (a) All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes.

(b) A building is exempt from property taxation if it is owned, occupied, and used by a town, city, township, or county for educational, literary, scientific, fraternal, or charitable purposes. **Any portion of a building used for a purpose other than educational, literary, scientific, fraternal, or charitable purposes is not exempt from property taxation. For the purposes of assessment, a building may be divided into portions that are either exempt or not exempt from property taxation.**

(c) A tract of land, including the campus and athletic grounds of an educational institution, is exempt from property taxation if:

(1) a building **used predominantly for educational, literary, scientific, fraternal, or charitable purpose which that** is exempt under subsection (a) or (b) is situated on it; and

(2) the tract **does not exceed: is owned and actively used by a person primarily for educational, literary, scientific, religious, or charitable purposes.**

~~(A) one hundred fifty (150) acres in the case of:~~

~~(i) an educational institution;~~

~~(ii) a tract that was exempt under this subsection on March 1, 1987; or~~

~~(B) two hundred (200) acres in the case of a local association formed for the purpose of promoting 4-H programs; or~~

~~(C) fifteen (15) acres in all other cases.~~

(d) A tract of land is exempt from property taxation if:

(1) it is purchased for the purpose of erecting a building **which that** is to be owned, occupied, and used in such a manner that the building will be exempt under subsection (a) or (b); **and**

~~(2) the tract does not exceed:~~

~~(A) one hundred fifty (150) acres in the case of:~~

~~(i) an educational institution; or~~

~~(ii) a tract that was exempt under this subsection on March 1, 1987;~~

~~(B) two hundred (200) acres in the case of a local association formed for the purpose of promoting 4-H programs; or~~

~~(C) fifteen (15) acres in all other cases; and~~

~~(3) (2) not more than three (3) years after the property is purchased, and for each year after the three (3) year period, the owner demonstrates substantial progress and active pursuit towards the erection of the intended building and use of the tract for the exempt purpose. To establish that substantial progress is being made, the owner must prove the existence of factors such as the following:~~

~~(A) Organization of and activity by a building committee or other oversight group.~~

~~(B) Completion and filing of building plans with the appropriate local government authority.~~

~~(C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within three (3) years.~~

~~(D) The breaking of ground and the beginning of actual construction.~~

(E) Any other factor that would lead a reasonable individual to believe that construction of the building is an active plan and that the building is capable of being completed within six (6) years considering the circumstances of the owner.

(e) Personal property is exempt from property taxation if it is owned and used in such a manner that it would be exempt under subsection (a) or (b) if it were a building.

(f) A hospital's property **which that** is exempt from property taxation under subsection (a), (b), or (e) shall remain exempt from property taxation even if the property is used in part to furnish goods or services to another hospital whose property qualifies for exemption under this section.

(g) Property owned by a shared hospital services organization **which that** is exempt from federal income taxation under Section 501(c)(3) or 501(e) of the Internal Revenue Code is exempt from property taxation if it is owned, occupied, and used exclusively to furnish goods or services to a hospital whose property is exempt from property taxation under subsection (a), (b), or (e).

(h) This section does not exempt from property tax an office or a practice of a physician or group of physicians that is owned by a hospital licensed under IC 16-21-1 or other property that is not substantially related to or supportive of the inpatient facility of the hospital unless the office, practice, or other property:

(1) provides or supports the provision of charity care (as defined in IC 16-18-2-52.5), including providing funds or other financial support for health care services for individuals who are indigent (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or

(2) provides or supports the provision of community benefits (as defined in IC 16-21-9-1), including research, education, or government sponsored indigent health care (as defined in IC 16-21-9-2).

However, participation in the Medicaid or Medicare program alone does not entitle an office, practice, or other property described in this subsection to an exemption under this section.

(i) A tract of land or a tract of land plus all or part of a structure on the land is exempt from property taxation if:

(1) the tract is acquired for the purpose of erecting, renovating, or improving a single family residential structure that is to be given away or sold:

(A) in a charitable manner;

(B) by a nonprofit organization; and

(C) to low income individuals who will:

(i) use the land as a family residence; and

(ii) not have an exemption for the land under this section;

~~(2) the tract does not exceed three (3) acres;~~

~~(3) (2) the tract of land or the tract of land plus all or part of a structure on the land is not used for profit while exempt under this section; and~~

~~(4) (3) not more than three (3) years after the property is acquired for the purpose described in subdivision (1), and for each year after the three (3) year period, the owner demonstrates substantial progress and active pursuit towards the erection, renovation, or improvement of the intended structure. To establish that substantial progress is being made, the owner must prove the existence of factors such as the following:~~

~~(A) Organization of and activity by a building committee or other oversight group.~~

~~(B) Completion and filing of building plans with the appropriate local government authority.~~

~~(C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within six (6) years of the initial exemption received under this subsection.~~

~~(D) The breaking of ground and the beginning of actual construction.~~

~~(E) Any other factor that would lead a reasonable individual to believe that construction of the structure is an active plan and that the structure is capable of being:~~

~~(i) completed; and~~

~~(ii) transferred to a low income individual who does not~~

receive an exemption under this section;
within six (6) years considering the circumstances of the owner.

(j) An exemption under subsection (i) terminates when the property is conveyed by the nonprofit organization to another owner. When the property is conveyed to another owner, the nonprofit organization receiving the exemption must file a certified statement with the auditor of the county, notifying the auditor of the change not later than sixty (60) days after the date of the conveyance. The county auditor shall immediately forward a copy of the certified statement to the county assessor. A nonprofit organization that fails to file the statement required by this subsection is liable for the amount of property taxes due on the property conveyed if it were not for the exemption allowed under this chapter.

(k) If property is granted an exemption in any year under subsection (i) and the owner:

- (1) ceases to be eligible for the exemption under subsection (i)(4);
- (2) fails to transfer the tangible property within six (6) years after the assessment date for which the exemption is initially granted; or
- (3) transfers the tangible property to a person who:
 - (A) is not a low income individual; or
 - (B) does not use the transferred property as a residence for at least one (1) year after the property is transferred;

the person receiving the exemption shall notify the county recorder and the county auditor of the county in which the property is located not later than sixty (60) days after the event described in subdivision (1), (2), or (3) occurs. The county auditor shall immediately inform the county assessor of a notification received under this subsection.

(l) If subsection (k)(1), (k)(2), or (k)(3) applies, the owner shall pay, not later than the date that the next installment of property taxes is due, an amount equal to the sum of the following:

- (1) The total property taxes that, if it were not for the exemption under subsection (I), would have been levied on the property in each year in which an exemption was allowed.
- (2) Interest on the property taxes at the rate of ten percent (10%) per year.

(m) The liability imposed by subsection (l) is a lien upon the property receiving the exemption under subsection (I). An amount collected under subsection (l) shall be collected as an excess levy. If the amount is not paid, it shall be collected in the same manner that delinquent taxes on real property are collected.

(n) Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9.

(o) An exemption under this chapter terminates when the property is conveyed by the nonprofit organization to another owner. If the sale price of the property exceeds the original price paid for the property, the nonprofit organization is liable for the amount of property taxes due on the property conveyed if it were not for the exemption allowed under this chapter. Property taxes collected shall not exceed the amount due for the three (3) consecutive years immediately prior to the date of sale.

(p) Except as provided in subsection (d), a tract of land or any portion of a tract of land is not exempt from taxation if it is owned by a person primarily for educational, literary, scientific, religious, or charitable purposes and is not actively used for educational, literary, scientific, religious, or charitable purposes. For the purposes of assessment, a tract of land may be divided into portions that are either exempt or not exempt from property taxation.

(q) A person who wishes to have a building or tract of land classified as exempt from property taxation under this section must have had the building or tract of land assessed by the township assessor of the county in which the land is located.

SECTION 3. IC 6-1.1-10-21, AS AMENDED BY P.L.198-2001, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE March 1, 2002 (RETROACTIVE)]: Sec. 21. (a) The following tangible property is exempt from property taxation if it is owned by, or held in trust for the use of, a church or religious society:

- (1) A building ~~which that~~ is used for religious worship.

~~(2) Buildings that are used as parsonages.~~

~~(3) (2) The pews and furniture contained within a building which that is used for religious worship.~~

~~(4) The tract of land, not exceeding fifteen (15) acres, land upon which a building described in this section that is used for religious worship is situated.~~

(b) A building that is used as a parsonage is exempt from property taxation if it is owned by, or held in trust for the use of, a church or religious society.

~~(b) (c)~~ To obtain an exemption for parsonages, a church or religious society must provide the county auditor with an affidavit at the time the church or religious society applies for the exemptions. The affidavit must state that:

- (1) all parsonages are being used to house one (1) of the church's or religious society's rabbis, priests, preachers, ministers, or pastors; and
- (2) none of the parsonages are being used to make a profit.

The affidavit shall be signed under oath by the church's or religious society's head rabbi, priest, preacher, minister, or pastor. The county auditor shall immediately forward a copy of the affidavit to the county assessor.

~~(c) (d)~~ Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9.

SECTION 4. IC 6-1.1-11-8, AS AMENDED BY P.L.90-2002, SECTION 105, IS AMENDED TO READ AS FOLLOWS: Sec. 8.

(a) On or before August 1 of each year, the county auditor of each county shall forward to the department of local government finance the duplicate copies of all approved exemption applications.

(b) The department of local government finance shall review the approved applications **forwarded under subsection (a)**. The department of local government finance may deny an exemption if the department determines that the property is not tax exempt under the laws of this state. However, before denying an exemption, the department of local government finance must give notice to the applicant, and the department must hold a hearing on the exemption application.

(c) With respect to the approved applications forwarded under subsection (a), the department shall, on or before August 1 of each year, report to the executive director of the legislative services agency:

- (1) the number forwarded;**
- (2) the number subjected to field investigation by the department; and**
- (3) the number denied by the department;**

during the year ending on July 1 of the year.

(d) The department of local government finance may investigate any approved application forwarded under subsection (a). The investigation may include inspection of:

- (1) the exempt property; and
- (2) relevant books and records of the person claiming the exemption.

Refusal of a person claiming an exemption to permit inspection of the property or relevant books and records constitutes grounds for denying the exemption.

(e) The department shall adopt rules under IC 4-22-2 with respect to exempt real property to:

- (1) provide just valuations; and
- (2) ensure that assessments are:
 - (A) made; and
 - (B) recorded;

in accordance with law.

SECTION 5. IC 6-1.1-21-4, AS AMENDED BY P.L.192-2002(ss), SECTION 41, IS AMENDED TO READ AS FOLLOWS: Sec. 4. *Effective 1-1-2003.* (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

- (1) each county's total eligible property tax replacement amount for that year; plus
- (2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus
- (3) an amount for each county that has one (1) or more taxing

districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half ($\frac{1}{2}$) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half ($\frac{1}{2}$) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

(d) All distributions provided for in this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state. If the amounts allocated by the department from the property tax replacement fund exceed in the aggregate the balance of money in the fund, then the amount of the deficiency shall be transferred from the state general fund to the property tax replacement fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the payment of that amount. However, any amount transferred under this section from the general fund to the property tax replacement fund shall, as soon as funds are available in the property tax replacement fund, be retransferred from the property tax replacement fund to the state general fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the replacement of that amount.

(e) Except as provided in subsection (I), the department shall not distribute under subsection (b) and section 10 of this chapter the money attributable to the county's property reassessment fund if, by the date the distribution is scheduled to be made, the county auditor has not:

(1) sent a certified statement required to be sent by that date under IC 6-1.1-17-1; or

(2) forwarded the duplicate copies of all approved exemption applications required to be forwarded by that date under IC 6-1.1-11-8(a);

to the department of local government finance.

(f) Except as provided in subsection (I), if the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the

distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b), the state board or the department shall not distribute under subsection (b) and section 10 of this chapter a part of the money attributable to the county's property reassessment fund. The portion not distributed is the amount that bears the same proportion to the total potential distribution as the number of townships in the county for which data was not transmitted by August 1 as described in this section bears to the total number of townships in the county.

(g) Money not distributed under for the reason stated in subsection ~~(e)~~ (e)(1) shall be distributed to the county when the county auditor sends to the department of local government finance the certified statement required to be sent under IC 6-1.1-17-1 with respect to which the failure to send resulted in the withholding of the distribution under subsection (e). **Money not distributed for the reason stated in subsection (e)(2) shall be distributed to the county when the county auditor forwards to the department of local government finance the approved exemption applications required to be sent under IC 6-1.1-11-8(a) with respect to which the failure to forward resulted in the withholding of the distribution under subsection (e). Money not distributed for the reasons stated in subsection (e)(1) and (e)(2) shall be distributed to the county when the county auditor:**

(1) sends to the department of local government finance the certified statement required to be sent under IC 6-1.1-17-1; and

(2) forwards to the department of local government finance the certified statement required to be sent under IC 6-1.1-11-8(a);

with respect to which the failure to forward resulted in the withholding of the distribution under subsection (e).

(h) Money not distributed under subsection (f) shall be distributed to the county when the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor transmits to the department of local government finance the data required to be transmitted under IC 6-1.1-4-25(b) with respect to which the failure to transmit resulted in the withholding of the distribution under subsection (f).

(i) The restrictions on distributions under subsections (e) and (f) do not apply if the department of local government finance determines that:

(1) the failure of a county auditor to send

(A) a certified statement; or

(B) copies of all approved exemption applications;

as described in subsection (e); or

(2) the failure of an official to transmit data as described in subsection (f);

is justified by unusual circumstances."

Page 2, delete lines 37 through 42.

Page 3, delete lines 1 through 26.

Page 3, before line 27, begin a new paragraph and insert the following:

"SECTION 6. IC 14-33-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE March 1, 2002 (RETROACTIVE)]: Sec. 4. (a) This section applies to the following tangible property owned by or held in trust for the use of a church or religious society:

(1) A building that is used for religious worship.

(2) A building that is used as a parsonage.

(3) The pews and furniture contained within a building that is used for religious worship.

(4) The land, not exceeding fifteen (15) acres, land upon which a building described in this section used as a parsonage is situated.

(5) The land upon which a building used for religious worship is situated.

(b) Property is exempt from the special benefits tax that may be imposed under:

(1) IC 14-33-6-13 and section 1 of this chapter; or

(2) IC 14-33-21-5;

to the extent that the special benefits tax revenue will be used for the construction or improvement of a water impoundment project, including a lake, pond, or dam.

(c) To obtain an exemption for a parsonage, a church or religious society must provide the county auditor with an affidavit at the time the church or religious society applies for the exemption. The affidavit must:

(1) state:

(A) that all parsonages are being used to house one (1) of the church's or religious society's rabbis, priests, preachers, ministers, or pastors; and

(B) that none of the parsonages are being used to make a profit; and

(2) be signed under oath or affirmation by the church's or religious society's head rabbi, priest, preacher, minister, pastor, or designee of the official church body.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) A church or religious institution may file a claim with the county auditor for a refund for the payment of property taxes first due and payable in 2001 if:

(1) the church or religious institution challenged in an administrative action before the state board of tax commissioners (before it was abolished) the denial of exemption of land for that year by the county property tax assessment board of appeals; and

(2) the church or religious institution paid property taxes for that year on land not exceeding fifteen (15) acres for which exemption was denied as described in subdivision (1).

The claim must be filed as set forth in IC 6-1.1-26-1, except that the claim must be based upon a determination of the exemption of the property of the church or religious institution as if IC 6-1.1-10-16, as amended by this act, had been in effect for property taxes first due and payable in 2001.

(b) Upon receiving a claim filed under this SECTION, the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this SECTION.

(c) The amount of the refund shall equal the amount of the claim so allowed. Interest of four percent (4%) per year is payable on the refund.

(d) This SECTION expires January 1, 2004.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) IC 6-1.1-10-16 (subject to SECTION 6 of this act), IC 6-1.1-10-21, and IC 14-33-7-4, all as amended by this act, apply only to property taxes first due and payable after December 31, 2002.

(b) This SECTION expires January 1, 2004.

SECTION 9. An emergency is declared for this act."

Page 3, delete lines 27 through 31.

Renumber all SECTIONS consecutively.

(Reference is to HB 2005 as printed February 17, 2003.)

SCHOLER

Motion prevailed.

HOUSE MOTION
(Amendment 2005-10)

Mr. Speaker: I move that House Bill 2005 be amended to read as follows:

Page 2, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 3. IC 6-1.1-11-3.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.8. (a) This section applies to real property that after December 31, 2003, is:

(1) exempt from property taxes:

(A) under an application filed under this chapter; or

(B) under:

(i) IC 6-1.1-10-2; or

(ii) IC 6-1.1-10-4; and

(2) leased to an entity other than a nonprofit corporation.

(b) After December 31, 2003, each lessor of real property shall notify the county assessor of the county in which the real property is located in writing of:

(1) the existence of the lease referred to in subsection (a)(2);

(2) the term of that lease; and

(3) the name and address of the lessee.

(c) Each county assessor shall annually notify the department of local government finance in writing of the information received by the county assessor under subsection (b).

(d) The department of local government finance shall adopt rules to:

(1) establish when the notices under subsections (b) and (c) must be given; and

(2) otherwise implement this section."

Page 3, after line 31, begin a new paragraph and insert:

"SECTION 6. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 2005 as printed February 17, 2003.)

FRENZ

Motion prevailed. The bill was ordered engrossed.

House Bill 1985

Representative Orentlicher called down House Bill 1985 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1977

Representative Friend called down House Bill 1977 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1977-2)

Mr. Speaker: I move that House Bill 1977 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning animals.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 14-8-2-318 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 318. "Wild animal" has the following meaning:

(1) For purposes of IC 14-22, except as provided in subdivision

(2), an animal whose species usually:

(A) lives in the wild; or

(B) is not domesticated.

(2) For purposes of IC 14-22-38-6, the meaning set forth in IC 14-22-38-6.

The term "wild animal" does not include cervidae located on a cervidae livestock facility under IC 15-2.1-25.

SECTION 2. IC 14-22-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The department may, under rules adopted under IC 4-22-2, issue to a resident of Indiana, upon the payment of a fee of fifteen dollars (\$15), a license to:

(1) propagate in captivity; and

(2) possess, buy, or sell for this purpose only; game birds, game mammals, or furbearing mammals protected by Indiana law.

(b) The department may not refuse to issue or renew a license under this chapter because the applicant applies for a license to propagate, possess, buy, or sell whitetail deer.

SECTION 3. IC 15-2.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 25. Cervidae Livestock Facilities

Sec. 1. As used in this chapter, "board" refers to the Indiana state board of animal health established by IC 15-2.1-3-1.

Sec. 2. As used in this chapter, "cervidae livestock facility" means privately owned cervidae livestock on privately owned land.

Sec. 3. (a) This chapter does not give a cervidae livestock facility the authority to take wild or free ranging cervidae, unless authorized by the department of natural resources.

(b) A person who has a cervidae livestock facility permit is not

required to obtain a license or permit from the department of natural resources to harvest privately owned cervidae.

(c) Cervidae livestock facilities are agricultural enterprises and are part of the farming and agricultural industry in Indiana.

(d) Subject to this chapter, a cervidae livestock facility may produce, grow, propagate, use, harvest, transport, export, import, or market cervidae species or cervidae products.

Sec. 4. (a) Except as provided in subsection (b), a person must obtain a cervidae livestock facility permit to operate a cervidae livestock facility.

(b) An entity is not required to obtain a license under this chapter if the entity is:

- (1) a research facility;
- (2) a circus; or
- (3) a publicly or privately owned zoological park or petting zoo;

that is licensed or registered by the United States Department of Agriculture under the the federal Animal Welfare Act of 1970, as amended (7 U.S.C. 2131 et seq.).

Sec. 5. (a) To apply for an initial cervidae livestock facility permit, a person must submit to the board the following:

- (1) An application with the following information:
 - (A) The name and address of the applicant.
 - (B) The location of the proposed cervidae livestock facility, including the legal description of the land, the size of the land, and address.
 - (C) The cervidae species and the maximum number of cervidae proposed to be allowed at the cervidae livestock facility location.
 - (D) The applicant's business plan, including the methods, protocols, and procedures the person intends on implementing to comply with this chapter.
 - (E) The actions and precautions taken to prevent the transmission of disease among or between wild or free ranging cervidae and privately owned cervidae, including methods of fencing and animal identification.
 - (F) The proposed method to remove wild or free ranging cervidae from the proposed facility, and the proposed method to verify that the wild or free ranging cervidae have been removed, if applicable.
 - (G) The record keeping system that will be used.
 - (H) The current zoning ordinances that apply to the proposed facility.
 - (I) Any ordinances concerning fences that apply to the facility.
 - (J) Any other information required by the board.
- (2) Pays the application fee determined by the board.

(b) The board shall forward a copy of the initial application to the county commissioners and any area plan commission or board of zoning appeals where the proposed cervidae livestock facility will be located. Within thirty (30) days after receipt of the application, the local unit of government may respond to the board indicating if the applicant's cervidae livestock facility would violate a local zoning or fence ordinance.

Sec. 6. The board shall inspect a proposed cervidae livestock facility not more than thirty (30) days after the applicant has informed the board that the facility is completed and ready to be inspected.

Sec. 7. (a) The board shall issue a cervidae livestock facility permit to a person when the following requirements have been met:

- (1) A completed application has been submitted.
- (2) The application fee has been paid.
- (3) The cervidae livestock facility has been inspected and meets the board's:
 - (A) operational standards; and
 - (B) fencing and construction requirements.
- (4) The facility complies with the business plan submitted to the board.
- (5) The applicant has taken actions to remove the wild or free ranging cervidae species from the cervidae livestock facility proposed under section 5(a)(1)(F) of this chapter

and has verified that those animals have been removed.

(6) The applicant can appropriately identify the facility's individual cervidae.

(7) The cervidae livestock facility complies with local zoning and fence ordinances. If the board does not receive a response from a local unit of government under section 5(b) of this chapter indicating that the proposed facility would violate a local zoning or fence ordinance, the board may presume that the facility complies with the local zoning and fence ordinances.

(b) If the board denies an applicant a cervidae livestock facility permit, the board shall give the applicant a written denial that specifies the deficiencies that need to be corrected in order for a permit to be issued. Without filing a second application, an applicant may submit a revised application and request a second inspection after the deficiencies have been corrected.

(c) A cervidae livestock facility permit expires three (3) years after the date the permit is issued.

Sec. 8. A cervidae livestock facility permit must contain the following information:

- (1) The complete name, business name, and business address of the cervidae livestock facility permit holder.
- (2) The permit registration number and expiration date.
- (3) The complete address of the cervidae livestock facility location.
- (4) The cervidae species and the maximum number of cervidae allowed at the cervidae livestock facility location.
- (5) The complete name, address, and telephone number of the board contact person concerning cervidae livestock facilities.

Sec. 9. The board shall adopt rules under IC 4-22-2 to regulate the following:

- (1) The operational standards for cervidae livestock facilities.
- (2) Application and renewal fees. The fees must be determined by the size of the facility and the number of cervidae located at the facility. However, the fees may not exceed:
 - (A) five hundred dollars (\$500) per facility; or
 - (B) fifty dollars (\$50) for small facilities that do not operate commercially.
 All fees collected under this section shall be deposited in the board's general operating account.
- (3) Fence height and construction requirements for different species of cervidae.
- (4) Standards to appropriately identify individual animals.
- (5) Standards and procedures to renew or amend cervidae livestock facility permits.
- (6) Any other matters that are necessary to implement this chapter.
- (7) The board shall establish different classes of cervidae livestock facility permits for distinct types of cervidae livestock facilities and establish different standards under this section for each class of facility.
- (8) Standards for the harvest, import, export, and transport of cervidae.

Sec. 10. (a) The board shall send a cervidae livestock facility permit holder a renewal application sixty (60) days before the expiration of the holder's permit.

(b) If the holder of a cervidae livestock facility permit submits a complete renewal application and renewal fee to the board before the expiration of the permit, the expiration of the current permit is extended until the renewal application is approved or denied.

Sec. 11. The board may inspect any cervidae livestock facility and collect samples or specimens at the facility during normal business hours.

Sec. 12. If a cervidae livestock facility is sold or transferred, the new owner shall inform the board in writing not more than ten (10) business days after the sale or transfer. The new owner of the cervidae livestock facility may operate under the existing cervidae livestock facility permit for:

- (1) one hundred eighty (180) days; or
 (2) until the existing permit expires;
 whichever comes first.

Sec. 13. (a) A person may not release cervidae from a cervidae livestock facility into the wild.

(b) A holder of a cervidae livestock facility permit shall inform the board within one (1) business day if a cervidae escapes from a cervidae livestock facility.

(c) A person may not intentionally or knowingly cause the ingress of wild cervidae into a cervidae livestock facility.

Sec. 14. (a) The board may deny, suspend, revoke, or limit a cervidae livestock facility permit if, after a hearing, the board determines that the applicant or holder of the permit has failed to comply with this chapter or standards adopted by the board.

(b) The board shall issue written notice to the applicant or licensee stating the board's action, the opportunity for a hearing under IC 4-21.5, and the procedure and time limit for requesting a hearing. If the applicant or licensee does not request a hearing before the board within fifteen (15) days after receiving the notice, the right to a hearing before the board is waived and the notice becomes the final order under IC 4-21.5. If a hearing is requested, the hearing shall be held in compliance with IC 4-21.5.

Sec. 15. A person who violates section 4 or 13 of this chapter commits a Class B infraction.

(Reference is to HB 1977 as printed February 28, 2003.)

FRIEND

[*Journal Clerk's note: Representatives Friend and Herrell as the author and coauthor of House Bill 1977 filed written consent to the "strip and insert" motion of Representative Friend.*]

On the motion of Representative Whetstone the previous question was called. The Speaker ordered the roll of the House to be called. Roll Call 277: yeas 62, nays 34. Motion prevailed. The bill was ordered engrossed.

House Bill 2032

Representative Dvorak called down House Bill 2032 for second reading. The bill was read a second time by title.

HOUSE MOTION
 (Amendment 2032-1)

Mr. Speaker: I move that House Bill 2032 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 36-4-3-4.1, AS AMENDED BY P.L.170-2002, SECTION 142, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.1. (a) This section applies to the following:

- (1) A town having a population of:
 (A) more than fifteen thousand (15,000); or
 (B) more than five thousand (5,000) but less than six thousand three hundred (6,300);
 located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000);
 (2) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000);
 (3) A municipality that is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);
 (4) A town having a population of more than nine thousand (9,000) but less than thirty thousand (30,000) located in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790);

(b) (a) Except as provided in subsection (c), The legislative body of a municipality to which this section applies may, by ordinance, annex territory that: if:

- (1) the territory is contiguous to the municipality;

(2) in the case of a town that:

(A) has a population of:

- (i) more than fifteen thousand (15,000); or
 (ii) more than five thousand (5,000) but less than six thousand three hundred (6,300); and

(B) is located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000);

municipality described in subsection (a)(1), has it's the entire area of the territory is within the township within which the municipality is primarily located; and

(3) the territory is owned by a property owner who consents to the annexation.

(c) Subsection (b)(2) does not apply to a town having a population of:

(1) more than five thousand (5,000) but less than eight thousand (8,000); or

(2) more than nine thousand (9,000) but less than twelve thousand five hundred (12,500);

in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

(d) (b) Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that is classified for zoning purposes as agriculture and remains exempt from the property tax liability while the property's zoning classification remains agriculture.

(e) (c) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory."

Renumber all SECTIONS consecutively.

(Reference is to HB 2032 as printed February 27, 2003.)

WHETSTONE

Motion failed. The bill was ordered engrossed.

House Bill 1899

Representative Austin called down House Bill 1899 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1881

Representative Pierce called down House Bill 1881 for second reading. The bill was read a second time by title.

HOUSE MOTION
 (Amendment 1881-1)

Mr. Speaker: I move that House Bill 1881 be amended to read as follows:

Page 3, line 1, after "agreement" insert ",".

Page 3, line 1, delete "or".

Page 3, line 2, delete "a tenant's occupancy,".

Page 3, delete lines 16 through 20.

Page 3, line 21, delete "(c)" and insert "(b)".

Page 3, line 22, delete "(d)" and insert "(c)".

Page 3, line 25, delete "(e)" and insert "(d)".

Page 3, line 27, delete "(f)" and insert "(e)".

Page 4, delete lines 19 through 20.

Page 6, delete line 42, begin a new paragraph and insert:

"(e) A tenant may not unreasonably withhold consent to the landlord to enter into the dwelling unit to do any of the following:

(1) Inspect the premises.

(2) Make necessary or agreed repairs, decorations, alterations, or improvements.

(3) Supply necessary or agreed services.

(4) Exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(f) A landlord may enter the dwelling unit without the consent of the tenant in case of an emergency that threatens the safety of the occupants or the landlord's property.

(g) Except as provided in subsection (f), or unless it is impracticable to do so, the landlord:

- (1) must give the tenant at least one (1) day's notice of the

- landlord's intent to enter the dwelling unit; and
 (2) may enter only at reasonable times.
 (h) A landlord has no other right of access except:
 (1) under a court order; or
 (2) when the tenant has abandoned or surrendered the dwelling unit."

Delete page 7.

Renumber all SECTIONS consecutively.

(Reference is to HB 1881 as printed February 19, 2003.)

PIERCE

Motion prevailed. The bill was ordered engrossed.

House Bill 1874

Representative Avery called down House Bill 1874 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1870

Representative Buell called down House Bill 1870 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1870-1)

Mr. Speaker: I move that House Bill 1870 be amended to read as follows:

Delete page 1.

Page 2, delete lines 1 through 2.

Page 2, line 5, delete "2003" and insert "2002".

Page 2, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE MARCH 1, 2002 (RETROACTIVE)]: (a) IC 6-1.1-6.9 as added by this act, apply to assessment dates after February 28, 2002, and property taxes first due and payable after December 31, 2002.

(b) This SECTION expires January 1, 2004."

Renumber all SECTIONS consecutively.

(Reference is to HB 1870 as printed February 28, 2003.)

BUELL

Motion prevailed. The bill was ordered engrossed.

House Bill 1833

Representative Reske called down House Bill 1833 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1833-4)

Mr. Speaker: I move that House Bill 1833 be amended to read as follows:

Page 2, line 41, delete "and".

Page 2, between lines 41 and 42, begin a new line block indented and insert:

"(6) a human powered vessel; and"

Page 2, line 42, delete "(6)" and insert "(7)".

Page 21, between lines 35 and 36, begin a new paragraph and insert:

"Sec. 30. (a) Except as provided in subsections (b) and (d), a human powered vessel may not be operated, used, or stored in a county during any part of a calendar year:

(1) unless the annual license excise tax for that human powered vessel has been paid for that calendar year; and

(2) unless valid annual license excise tax decals for that calendar year are affixed to the human powered vessel.

(b) A human powered vessel may be operated, used, or stored in a county without the annual license excise tax having been paid if:

(1) the human powered vessel is exempt from the excise tax under section 2 of this chapter; or

(2) the operator of the human powered vessel has in the operator's possession a bill of sale from a dealer or private individual that includes the following:

(A) The purchaser's name and address.

(B) A date of purchase that is not more than thirty-one (31) days preceding the date that the operator is required to show the bill of sale.

(C) The make and type of human powered vessel.

(c) Human powered vessels that are subject to the annual license excise tax for a calendar year are not subject to assessment and taxation under IC 6-1.1 for ad valorem property taxes first due and payable in the following calendar year, with respect to the taxpayer who must pay the annual license excise tax.

(d) A human powered vessel may be operated, used, or stored in a county without valid excise tax decals for that calendar year being affixed to the vessel if the decals do not have to be affixed to the vessel under rules adopted by the department of natural resources.

Sec. 31. An owner of a human powered vessel shall pay the annual license excise tax for a calendar year to the bureau. The tax must be paid at the same time that the owner of the vessel pays or would pay the registration fee and motor vehicle excise taxes on motor vehicles under IC 9-18 and IC 6-6-5. When the owner of the vessel pays the tax, the owner is entitled to receive the annual license excise tax decals.

Sec. 32. The department of natural resources shall prescribe the design of the annual license excise tax decals for human powered vessels in sufficient time for the bureau to procure a sufficient number of annual license excise tax decals for each class of human powered vessel. Each decal must:

(1) state the calendar year to which the decal applies;

(2) have a unique identification number;

(3) be a different color than the colors used for the previous calendar year; and

(4) be designed so that law enforcement officers can easily identify whether the decal is valid.

Sec. 33. The bureau shall establish a procedure for replacing lost, stolen, and damaged decals. A fee of three dollars (\$3) shall be charged by the bureau to defray the cost of issuing replacement decals.

Sec. 34. The taxpayer shall affix the annual license excise tax decals in easily visible locations on the human powered vessel.

Sec. 35. A person who falsifies, predates, changes, or counterfeits an annual license excise tax decal for a human powered vessel commits a Class C misdemeanor."

Page 21, delete lines 36 through 42.

Delete pages 22 through 24.

Page 25, delete lines 1 through 9.

Page 26, delete lines 14 through 42.

Page 27, delete lines 1 through 24.

Page 27, line 40, delete "IC 6-6-11-10; IC 6-6-11-11;".

Renumber all SECTIONS consecutively.

(Reference is to HB 1833 as printed February 20, 2003.)

RESKE

Motion prevailed. The bill was ordered engrossed.

House Bill 1788

Representative Hasler called down House Bill 1788 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1738

Representative Kuzman called down House Bill 1738 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1738-1)

Mr. Speaker: I move that House Bill 1738 be amended to read as follows:

Page 7, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 15. IC 7.1-3-23-15 IS REPEALED [EFFECTIVE UPON PASSAGE]."

Page 7, after line 18, begin a new paragraph and insert:

"SECTION 16. An emergency is declared for this act."

Renumber all SECTIONS consecutively.
(Reference is to HB 1738 as printed February 26, 2003.)

KUZMAN

Motion prevailed.

HOUSE MOTION
(Amendment 1738-3)

Mr. Speaker: I move that House Bill 1738 be amended to read as follows:

Page 2, line 24, delete "two (2)" and insert "**four (4)**".
(Reference is to HB 1738 as printed February 26, 2003.)

KUZMAN

Motion prevailed.

HOUSE MOTION
(Amendment 1738-2)

Mr. Speaker: I move that House Bill 1738 be amended to read as follows:

Page 2, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 6. IC 7.1-2-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Prosecutor: Powers and Duties. The prosecutor shall have the following powers and duties:

(a) To prosecute before the commission all violations of laws pertaining to alcohol, ~~and~~ alcoholic beverages, ~~and~~ tobacco, **including violations pertaining to tobacco vending machines;**

(b) To prosecute before the commission all violations of the rules and regulations of the commission;

(c) To assist the prosecuting attorneys of the various judicial circuits in the investigation and prosecution of violations of laws pertaining to alcohol, ~~and~~ alcoholic beverages, ~~and~~ tobacco, **including violations pertaining to tobacco vending machines,** and to represent the state in these matters;

(d) To appear before grand juries to assist in their investigations into matters pertaining to alcohol, ~~and~~ alcoholic beverages, ~~and~~ tobacco, **including matters pertaining to tobacco vending machines;**

(e) To establish a seal of his office;

(f) To administer oaths and to do all other acts authorized by law for notaries public; and,

(g) To employ, with the consent of the commission and at salaries fixed by the commission in their budget, the clerical staff required by him to effectively discharge his duties."

Page 3, line 25, delete "revokes" and insert "**suspends**".

Page 3, line 31, delete "or revoke".

Page 3, line 34, delete "penalty, suspending, or revoking" and insert "**penalty or suspending**".

Page 3, line 38, delete "penalty, suspension, or revocation" and insert "**penalty or suspension**".

Page 3, line 39, after "Sec. 6." insert "**(a)**".

Page 3, line 40, after "expired;" insert "**or**".

Page 3, line 41, delete "or".

Page 3, delete line 42.

Page 4, between lines 4 and 5, begin a new paragraph and insert: "**(b) The failure to pay a civil penalty described in subsection (a) is a Class B infraction.**"

Page 4, line 7, delete "Class B misdemeanor." and insert "**Class A infraction.**".

Page 5, reset in roman lines 29 through 34.

Page 5, line 35, reset in roman "(g)".

Page 5, line 35, delete "(f)".

Page 7, between lines 16 and 17, begin a new paragraph and insert:

"**(h) A person who violates subsection (a) at least six (6) times in any six (6) month period commits habitual illegal sale of tobacco, a Class B infraction.**"

Page 7, reset in roman lines 8 through 13.

Page 7, line 14, reset in roman "(g)".

Page 7, line 14, delete "(f)".

Renumber all SECTIONS consecutively.
(Reference is to HB 1738 as printed February 26, 2003.)

LYTLE

Motion prevailed. The bill was ordered engrossed.

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

Representative Porter, who had been excused, was present.

House Bill 1714

Representative Klinker called down House Bill 1714 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1686

Representative Liggett called down House Bill 1686 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1686-1)

Mr. Speaker: I move that House Bill 1686 be amended to read as follows:

Page 8, line 13, delete "The" and insert "**With the approval of the fiscal body of each political subdivision appointing at least one (1) member to the board, the**".

(Reference is to HB 1686 as printed February 27, 2003.)

LIGGETT

Motion prevailed. The bill was ordered engrossed.

House Bill 1221

Representative Bottorff called down House Bill 1221 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1221-6)

Mr. Speaker: I move that House Bill 1221 be amended to read as follows:

Page 16, delete lines 12 through 23.

(Reference is to HB 1221 as printed February 28, 2003.)

BOTTORFF

The Chair ordered the roll of the House to be called. Roll Call 278: yeas 52, nays 42. Motion prevailed.

HOUSE MOTION
(Amendment 1221-3)

Mr. Speaker: I move that House Bill 1221 be amended to read as follows:

Page 2, delete lines 27 through 37.

Page 3, delete lines 3 through 7.

Page 3, delete lines 21 through 25.

Page 5, line 5, delete "If" and insert "**Except as provided in section 9 of this chapter, if**".

Page 5, line 8, after "rule" insert ".".

Page 5, delete lines 9 through 12.

Page 5, delete lines 25 through 42, begin a new paragraph and insert:

"SECTION 17. IC 13-14-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) ~~This section applies to A variance granted under section 8 of this chapter or IC 13-7-7-6 (before its repeal)~~ from a water quality standard that is at least in part the basis of a National Pollutant Discharge Elimination System permit issued under this title **must meet the conditions specified in:**

(1) **40 CFR Part 132, Appendix F, Procedure 2.C; and**

(2) **rules adopted by the board.**

(b) Except as provided in subsection (c), a variance from a water quality standard of the water pollution control board under section 8 of this chapter or IC 13-7-7-6 (before its repeal) may be:

(1) granted for not more than five (5) years; and

(2) renewed for not more than five (5) years.

(c) A variance granted under section 8 of this chapter or IC 13-7-7-6 (before its repeal) from a water quality standard that is at least in part the basis of a National Pollutant Discharge Elimination System permit:

(1) issued under this title; and

(2) extended under IC 13-15-3-6 or IC 13-7-10-2(e) (before its repeal);

remains in effect until the National Pollutant Discharge Elimination System permit expires."

Delete page 6.

Page 7, delete lines 1 through 39.

Renumber all SECTIONS consecutively.

(Reference is to HB 1221 as printed February 28, 2003.)

BOTTORFF

Motion prevailed.

HOUSE MOTION (Amendment 1221-4)

Mr. Speaker: I move that House Bill 1221 be amended to read as follows:

Page 4, delete lines 5 through 20.

Page 14, line 4, delete "one-half (1/2)" and insert **"one-tenth (1/10) of an"**.

Renumber all SECTIONS consecutively.

(Reference is to HB 1221 as printed February 28, 2003.)

PIERCE

Upon request of Representatives Wolkins and Bottorff, the Chair ordered the roll of the House to be called. Roll Call 279: yeas 17, nays 79. Motion failed.

HOUSE MOTION (Amendment 1221-1)

Mr. Speaker: I move that House Bill 1221 be amended to read as follows:

Page 1, line 9, delete "that supports" and insert **"located in a setting that has been substantially disturbed or affected by human activity or development such that at least thirty percent (30%) of the area of the wetland and at least thirty percent (30%) of the area of a buffer zone extending fifty (50) feet from the outer edge of the delineated wetland have been affected by one (1) or more of the following:**

(1) Removal or replacement of the natural vegetation.

(2) Substantial disturbance or modification of the natural hydrology."

Page 1, delete lines 10 through 11.

Page 1, line 15, delete "that supports" and insert **"located in a setting that has been disturbed or affected by human activity or development such that less than thirty percent (30%) of the area of the wetland and less than thirty percent (30%) of a buffer zone extending fifty (50) feet from the outer edge of the delineated wetland have been affected by one (1) or more of the following:**

(1) Removal or replacement of the natural vegetation.

(2) Substantial disturbance or modification of the natural hydrology."

Page 1, delete lines 16 through 17.

Page 2, line 4, delete "supports" and insert ":

(1) is located in a setting undisturbed by human activity or development; or

(2) is of one (1) of the following rare and ecologically important types:

(A) Acid bog.

(B) Acid seep.

(C) Circumneutral bog.

(D) Circumneutral seep.

(E) Fen.

(F) Forested fen.

(G) Forested swamp.

(H) Marl beach.

(I) Muck flat.

(J) Panne.

(K) Sand flat.

(L) Sedge meadow.

(M) Shrub swamp.

(N) Sinkhole pond.

(O) Sinkhole swamp.

(P) Wet floodplain forest.

(Q) Wet prairie.

(R) Wet sand prairie."

Page 2, delete lines 5 through 6.

Page 14, between lines 4 and 5, begin a new line block indented and insert:

"(5) A Category II wetland smaller than one-quarter (1/4) acre."

Page 14, line 5, delete "(5)" and insert **"(6)"**.

Page 14, line 7, delete "(6)" and insert **"(7)"**.

(Reference is to HB 1221 as printed February 28, 2003.)

HEIM

After discussion, Representative Heim withdrew the motion.

There being no further amendments, the bill was ordered engrossed.

House Bill 1662

Representative L. Lawson called down House Bill 1662 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1662-1)

Mr. Speaker: I move that House Bill 1662 be amended to read as follows:

Page 1, line 4, after "employee" insert **"employed in the construction trades"**.

Page 1, line 5, delete "or written policy".

Page 2, line 26, after "done" insert **", including fringe benefits and withholdings,"**.

Page 11, delete lines 12 through 42.

Delete page 12.

(Reference is to HB 1662 as printed February 26, 2003.)

L. LAWSON

Motion prevailed. The bill was ordered engrossed.

House Bill 1659

Representative Wolkins called down House Bill 1659 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1659-1)

Mr. Speaker: I move that House Bill 1659 be amended to read as follows:

Page 1, line 2, delete "The" and insert **"(a) Except as provided in subsection (b), the"**.

Page 1, after line 14, begin a new paragraph and insert:

"(b) This subsection applies only to contracts between a board and a campground entered into or renewed after June 30, 2003. If a campground is billed for sewage service at a flat rate under subsection (a), the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the sewers for one (1) year. The highest monthly meter reading for the campground during the year shall be used to determine the resident equivalent units for the campground. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit. The board may impose additional charges on a campground under this subsection if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including:

(1) installation of oversized pipe; and

(2) the installation of any other unique equipment;

necessary to provide sewage service for the campground."

(Reference is to HB 1659 as printed February 27, 2003.)

WOLKINS

Motion prevailed. The bill was ordered engrossed.

House Bill 1655

Representative Bardon called down House Bill 1655 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1655-5)

Mr. Speaker: I move that House Bill 1655 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions and to make an appropriation.

Page 3, line 26, delete "one hundred" and insert "**seventy-five**".

Page 3, line 27, delete "(\$100,000)" and insert "**(\$75,000)**".

Page 5, line 30, delete "benchmark" and insert "**interest**".

Page 10, line 18, after "provide a" insert "**written**".

Page 10, line 19, delete "seven (7)" and insert "**ten (10)**".

Page 11, line 35, delete "and copies of all" and insert "**at the same time as the good faith estimates are provided to the borrower in accordance with the requirements of the Real Estate Settlement Procedures Act, 12 U.S.C. 2601 et. seq., as amended.**".

Page 11, delete lines 36 through 39.

Page 12, line 27, delete "chapter, though no claim or defense is considered a" and insert "**chapter. Nothing in this subsection is intended or shall be construed to allow any claim or defense otherwise barred by any statute of limitation or repose.**".

Page 12, delete line 28.

Page 12, line 29, delete "A creditor may not engage in a practice or have a policy that" and insert "**It shall be unlawful for any creditor to discriminate against any applicant with respect to any aspect of a credit transaction on the basis of race, color, religion, national origin, sex or marital status, or age, provided that the applicant has the ability to contract.**".

Page 12, delete lines 30 through 31.

Delete page 13.

Page 14, delete lines 1 through 22.

Page 14, line 23, delete "Sec. 21." and insert "**Sec. 20. (a).**".

Page 14, between lines 29 and 30 begin a new paragraph and insert:

"(b) A creditor in a high cost home loan who in good faith fails to comply with this chapter shall not be considered to have violated this chapter if the creditor establishes that:

(1) not later than sixty (60) days after the date of the discovery of the error the creditor:

(A) notifies the borrower of the compliance error;

(B) makes appropriate restitution to the borrower of any amounts collected in error; and

(C) makes all appropriate adjustments to the loan to correct the error.

(c) Before subsection (b) applies, the creditor must establish that the compliance failure was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid the errors. For purposes of this subsection, bona fide errors include clerical errors, calculation errors, computer malfunction and programming errors, and printing errors. An error of legal judgment with respect to a person's obligations under this chapter is not a bona fide error for purposes of this subsection."

Page 14, line 30, delete "Sec. 22." and insert "**Sec. 21.**".

Page 14, line 30, after "(a)" insert "The attorney general may bring an action to enjoin a violation. A court in which the action is brought may:

(1) issue an injunction;

(2) order a person to make restitution;

(3) void or limit the application of obligations that violate this chapter;

(4) order a person to reimburse the state for reasonable costs of the attorney general's investigation and prosecution

of the violation of this chapter; or

(5) impose a civil penalty of not more than two thousand dollars (\$2,000) per violation.

(b) A person who violates an injunction under this section must pay a civil penalty of not more than fifteen thousand dollars (\$15,000) per violation.

(c) The court that issues an injunction retains jurisdiction over a proceeding seeking the imposition of a civil penalty under this section.

Sec. 22 (a)."

Page 14, between lines 35 and 36 begin anew paragraph and insert"

"(b) The attorney general may refer a matter under this section to a prosecuting attorney for enforcement."

Page 14, line 36, delete "(b)" and insert "**Sec. 23. (a).**".

Page 15, line 2, delete "malicious or" and insert "**intentional or malicious.**".

Page 15, delete line 3.

Page 15, line 5, delete "(c)" and insert "**(b)**".

Page 15, line 8, delete "(d)" and insert "**(c)**".

Page 15, line 14, delete "(e)" and insert "**(d)**".

Page 15, line 18, delete "(f)" and insert "**(e)**".

Page 15, line 19, delete "may" and insert "**shall**".

Page 15, line 22, delete "(g)" and insert "**(f)**".

Page 15, line 27, delete "Sec. 23." and insert "**Sec. 24.**".

Page 15, line 29, delete "Sec. 24." and insert "**Sec. 25.**".

Page 16, line 20, delete "Sec. 25." and insert "**Sec. 26.**".

Page 16, line 21, delete "24(f)" and insert "**25(f)**".

Page 16, line 23, delete "Sec. 26." and insert "**Sec. 27.**".

Page 16, line 24, delete "24(f)" and insert "**25(f)**".

Page 16, line 26, delete "Sec. 27." and insert "**Sec. 28.**".

Page 17, line 3, delete "Sec. 28. (a)" and insert "**Sec. 29.**".

Page 17, delete lines 11 through 25.

Page 17, line 26, delete "Sec. 29." and insert "**Sec. 30.**".

Page 17, line 31, delete "30." and insert "**31.**".

Page 17, line 31, delete "covered" and insert "**high cost home**".

Page 17, line 34, delete "covered" and insert "**high cost home**".

Page 17, line 38, delete "covered" and insert "**high cost home**".

Page 17, between lines 39 and 40, begin a new paragraph and insert:

"Sec. 32. (a) This chapter does not apply to any bank, trust company, savings and loan, savings bank, or credit union that is chartered under the laws of Indiana to the extent federal law precludes or preempts the application of the provisions of this chapter to any federally chartered bank, trust company, savings and loan, savings bank, or credit union, respectively.

(b) The federal preclusion or preemption applies only to the same type of state chartered entity as the federally chartered entity affected.

(c) The provisions of this chapter are applicable to home loan brokers for any loan originated or brokered by the broker that is originally funded by any other state or federally chartered bank, trust company, savings and loan, savings bank, or credit union."

Page 20, between lines 30 and 31 begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE JULY 1, 2003] (a) There is appropriated to the legislative council seventy-five thousand dollars (\$75,000) from the fee revenue credited to the mortgage fraud unit under IC 24-4-6.5-29, as added by this act, for its use in contracting with an independent organization to conduct a study of predatory lending and the causes of the high rate of foreclosure in Indiana during the years 2001, 2002 and 2003 beginning July 1, 2004, and ending June 30, 2005.

(b) The money appropriated by this SECTION does not revert to the state general fund at the close of any state fiscal year but remains available to the legislative council until the purpose for which it was appropriated is fulfilled.

(c) The results of the study shall be reported in writing to the legislative council not later than December 31, 2005. The report is a public record.

(d) This SECTION expires January 1, 2006.

SECTION 6. [EFFECTIVE JANUARY 1, 2006] (a) As used in this SECTION, "committee" refers to the interim study committee on mortgage lending policies established by subsection (b).

(b) There is established the interim study committee on mortgage lending policies. The committee shall study predatory lending and the high rate of foreclosure in Indiana.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(e) This SECTION expires December 31, 2006."

Renumber all SECTIONS consecutively.

(Reference is to HB 1655 as printed February 28, 2003.)

BARDON

Motion prevailed. The bill was ordered engrossed.

House Bill 1630

Representative Welch called down House Bill 1630 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1630-2)

Mr. Speaker: I move that House Bill 1630 be amended to read as follows:

Page 9, between lines 19 and 20, begin a new paragraph and insert: "SECTION 18. IC 31-11-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Each person who intends to marry must undergo a standard serological test for HIV as defined in IC 16-41-6-0.5. The results of the test shall be disclosed to both of the persons who intend to marry but shall otherwise be confidential."

Renumber all SECTIONS consecutively.

(Reference is to HB 1630 as printed February 27, 2003.)

KRUSE

Representative Pelath rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 1630 a bill pending before the House. The Chair ruled the point was well taken and the motion was out of order.

HOUSE MOTION
(Amendment 1630-1)

Mr. Speaker: I move that House Bill 1630 be amended to read as follows:

Page 2, line 22, after "consented." strike "The test for the antibody or antigen to".

Page 2, delete lines 23 through 25.

Page 4, delete lines 38 through 41.

Renumber all SECTIONS consecutively.

Page 5, line 13, strike "that:" and insert "that".

Page 5, line 14, delete "(1)".

Page 5, run in lines 13 through 14.

Page 5, line 15, delete "(A)" and insert "(1)".

Page 5, line 17, delete "(B)" and insert "(2)".

Page 5, line 19, delete "; and" and insert ".".

Page 5, delete line 20.

Page 5, delete lines 37 through 38.

Page 5, line 39, delete "(f)" and insert "(e)".

Page 6, line 5, delete "(g)" and insert "(f)".

Page 6, line 7, delete "(h)" and insert "(g)".

Page 6, line 9, delete "(I)" and insert "(h)".

Page 6, line 14, delete "(j)" and insert "(I)".

Page 6, line 18, delete "(k)" and insert "(j)".

(Reference is to HB 1630 as printed February 27, 2003.)

KRUSE

Motion failed. The bill was ordered engrossed.

The Speaker Pro Tempore yielded the gavel to the Speaker.

House Bill 1589

Representative Avery called down House Bill 1589 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1589-2)

Mr. Speaker: I move that House Bill 1589 be amended to read as follows:

Page 4, line 17, delete "five million dollars (\$5,000,000)" and insert "three million dollars (\$3,000,000)".

(Reference is to HB 1589 as printed February 28, 2003.)

THOMPSON

Motion prevailed. The bill was ordered engrossed.

House Bill 1575

Representative Bischoff called down House Bill 1575 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1575-1)

Mr. Speaker: I move that House Bill 1575 be amended to read as follows:

Page 3, line 20, after "(e)." insert "The guidelines shall include school performance standards, and eligibility for a waiver under subsection (e) shall be based at least in part upon a school's performance."

(Reference is to HB 1575 as printed February 28, 2003.)

SCHOLER

Upon request of Representatives Bosma and Scholer, the Speaker ordered the roll of the House to be called. Roll Call 280: yeas 46, nays 48. Motion failed. The bill was ordered engrossed.

House Bill 1546

Representative Fry called down House Bill 1546 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1546-1)

Mr. Speaker: I move that House Bill 1546 be amended to read as follows:

Page 8, line 5, after "(a)" insert "This section applies after:

(1) June 30, 2005; and

(2) the number of individuals described in subsection (b) that will be covered by local units electing to provide coverage under this section is equal to at least ninety percent (90%) of the number of active and retired employees of the state that are covered under the group health insurance program.

(b)".

Page 8, line 13, delete "(b)" and insert "(c)".

Page 8, line 17, delete "(c)" and insert "(d)".

Page 8, line 20, delete "(d)" and insert "(e)".

Page 8, line 22, delete "under" and insert "as provided in".

Page 8, line 23, delete "(e)" and insert "(f) A local unit that elects to provide coverage under this section shall continue to participate in the group health insurance program under this section for at least five (5) years after making the election.

(g)".

Page 8, line 25, after "requirements" insert "consistent with subsection (a)".

(Reference is to HB 1546 as printed February 28, 2003.)

FRY

Motion prevailed. The bill was ordered engrossed.

House Bill 1535

Representative Dobis called down House Bill 1535 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1535-2)

Mr. Speaker: I move that House Bill 1535 be amended to read as follows:

Page 3, between lines 7 and 8, begin a new line block indented and

insert:

"(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33."

Page 6, line 21, after "reassessment" insert ":

(1)"

Page 6, line 34, delete "chapter." and insert **"chapter; and**

(2) must include a statement of the taxpayer's rights under sections 33 and 34 of this chapter."

Page 12, line 34, delete "subsections (c), (d), and (e)," and insert **"other requirements of this section,"**

Page 13, line 7, delete "and".

Page 13, between lines 8 and 9, begin a new line triple block indented and insert:

"(iii) the reassessment appeal process under section 34 of this chapter; and"

Page 13, between lines 10 and 11, begin a new paragraph and insert:

"(c) Following an informal hearing referred to in subsection (b), the contractor shall:

(1) make a recommendation to the department of local government finance as to whether a change in the reassessment is warranted; and

(2) if recommending a change under subdivision (1), provide to the department a statement of:

(A) how the changed reassessment was determined; and

(B) the amount of the changed reassessment."

Page 13, line 11, delete "(c) Except as provided in subsection (d), the" and insert **"(d) To preserve the right to appeal under section 34 of this chapter, a taxpayer must initiate the informal hearing process by notifying the department of local government finance or its designee of the taxpayer's intent to participate in an"**

Page 13, line 11, delete "hearings" and insert **"hearing"**.

Page 13, line 12, delete "must be conducted:".

Page 13, line 13, delete "(1)".

Page 13, run in lines 12 through 13.

Page 13, line 15, delete "reassessment;" and insert **"reassessment."**

(e) The informal hearings referred to in subsection (b) must be conducted:

(1) at locations in the county where the property is located; and

(2) in a manner determined by the department of local government finance.

(f) The department of local government finance shall:

(1) consider the recommendation of the contractor under subsection (c); and

(2) if the department accepts a recommendation that a change in the reassessment is warranted, accept or modify the recommended amount of the changed reassessment.

(g) The department of local government finance shall send a notice of the result of each informal hearing to:

(1) the taxpayer;

(2) the county auditor;

(3) the county assessor; and

(4) the township assessor of the township in which the property is located.

(h) A notice under subsection (g) must:

(1) state whether the reassessment was changed as a result of the informal hearing; and

(2) if the reassessment was changed as a result of the informal hearing:

(A) indicate the amount of the changed reassessment; and

(B) provide information on the taxpayer's right to appeal under section 34 of this chapter.

(i) If the department of local government finance does not send a notice under subsection (g) not later than two hundred seventy (270) days after the date the department gives notice of the amount of the reassessment under section 32(f) of this chapter:

(1) the department may not change the amount of the reassessment under the informal hearing process described in this section; and

(2) the taxpayer may appeal the reassessment under section 34 of this chapter.

(j) The department of local government finance may adopt emergency rules to establish procedures for informal hearings under this section."

Page 13, delete lines 16 through 26.

Page 13, line 27, delete "(e)" and insert **"(k)"**.

Page 14, between lines 3 and 4, begin a new line block indented and insert:

"(1) request and participate in an informal hearing under section 33 of this chapter not later than forty-five (45) days after the date of the notice of reassessment under section 32(f) of this chapter;

(2) except as provided in section 33(i) of this chapter, receive a notice of changed reassessment under section 33(g) of this chapter; and"

Page 14, line 4, delete "(1)" and insert **"(3)"**.

Page 14, line 5, delete "forty-five (45)" and insert **"thirty (30)"**.

Page 14, line 7, delete "chapter; and" and insert **"chapter."**

Page 14, delete line 8.

Page 14, line 22, delete "shall" and insert **"may"**.

Page 14, line 23, delete "independent, licensed appraisers" and insert **"the following"**.

Page 14, line 25, delete "(g)." and insert **"(g):**

(1) Independent, licensed appraisers.

(2) Attorneys.

(3) Certified level two Indiana assessor-appraisers (including administrative law judges employed by the Indiana board).

(4) Other qualified individuals."

Page 14, delete lines 29 through 30.

Page 14, line 31, delete "compensation and reimbursement for expenses".

(Reference is to HB 1535 as printed February 19, 2003.)

DOBIS

Motion prevailed. The bill was ordered engrossed.

House Bill 1003

Representative Liggett called down House Bill 1003 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1003-3)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 98, line 31, delete "nine" and insert **"eight"**.

Page 98, line 31, delete "(\$9,000)," and insert **"(\$8,000),"**.

(Reference is to HB 1003 as printed February 26, 2003.)

LIGGETT

Motion prevailed.

HOUSE MOTION
(Amendment 1003-4)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 125, line 15, delete "sixty" and insert **"seventy-five"**.

Page 125, line 15, delete "(\$160,000,000)" and insert **"(\$175,000,000)"**.

Page 125, after line 42, begin a new line block indented and insert:

"(3) Ten million dollars (\$10,000,000) to be used for the staffing and operating costs of WorkOne offices."

Page 126, line 1, delete "(3) Seventy-five" and insert **"(4) Sixty-five"**.

Page 126, line 1, delete "(\$75,000,000)" and insert **"(\$65,000,000)"**.

(Reference is to HB 1003 as printed February 26, 2003.)

LIGGETT

Motion prevailed.

HOUSE MOTION
(Amendment 1003-6)

Mr. Speaker: I move that House Bill 1003 be amended to read as

follows:

Page 11, line 33, reset in roman "No".
 Page 11, line 33, delete "Each".
 Page 11, line 34, delete "payment of".
 Page 11, line 34, reset in roman "is".
 Page 11, line 34, delete "under IC 22-3-3-8, IC 22-3-3-9".
 Page 11, delete line 35.
 Page 11, line 37, after "knowingly" insert "**knowing and willful**".
 Page 11, line 37, reset in roman "self-inflicted injury".
 Page 11, line 37, delete "," and insert "**or death;**
(2)".
 Page 11, line 38, delete "(2)" and insert "**(3)**".
 Page 11, line 39, delete "(3)" and insert "**(4)**".
 Page 11, line 40, delete "(4)" and insert "**(5)**".
 Page 12, line 1, delete "(5)" and insert "**(6)**".
 Page 12, delete lines 3 through 10.
 Page 12, line 11, delete "(d)" and insert "**(b)**".
 Page 12, line 11, delete "subsections" and insert "**subsection**".
 Page 12, line 11, after "(a)" insert ".".
 Page 12, delete line 12.
 Page 23, line 35, delete "(a)".
 Page 24, delete lines 38 through 42.
 Page 25, delete lines 1 through 25.
 Page 35, delete lines 18 through 20.
 Page 45, line 38, delete "Subject to IC 22-3-2-8, the" and insert
 "The".
 Page 71, delete lines 7 through 8.
 Page 82, line 35, delete ", subject to".
 Page 82, line 36, delete "section 21 of this chapter".
 Page 85, delete lines 6 through 7.
 Page 89, line 4, reset in roman "No".
 Page 89, line 4, delete "Each payment of".
 Page 89, line 4, reset in roman "is".
 Page 89, line 4, delete "under sections".
 Page 89, delete line 5.
 Page 89, line 6, reset in roman "any".
 Page 89, line 6, reset in roman "knowingly self-inflicted by the".
 Page 89, line 6, after "knowingly" insert "**or willfully**".
 Page 89, line 7, reset in roman "employee or".
 Page 89, delete lines 16 through 22.
 Page 89, line 23, delete "(e)" and insert "**(c)**".
 Page 89, line 23, delete "subsections" and insert "**subsection**".
 Page 89, line 23, after "(b)" insert ".".
 Page 89, delete line 24.
 Renumber all SECTIONS consecutively.
 (Reference is to HB 1003 as printed February 26, 2003.)

LIGETT

Motion prevailed.

HOUSE MOTION (Amendment 1003-7a)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 106, delete lines 15 through 42.
 Page 107, delete lines 1 through 16.
 Page 113, line 16, delete "Except as".
 Page 113, line 17, delete "provided in section 3.5 of this chapter,
 an" and insert "An".
 Page 114, delete lines 23 through 42.
 Page 115, delete lines 1 through 16.
 Renumber all SECTIONS consecutively.
 (Reference is to HB 1003 as printed February 26, 2003.)

LIGETT

Motion prevailed.

HOUSE MOTION (Amendment 1003-1)

Mr. Speaker: I move that House Bill 1003 be amended to read as follows:

Page 109, delete lines 26 through 42.
 Page 110, delete lines 1 through 7.
 Page 134, delete lines 33 through 42.

Delete pages 135 through 139.

Page 140, delete lines 1 through 19.

Renumber all SECTIONS consecutively.

(Reference is to HB 1003 as printed February 26, 2003.)

TORR

Motion prevailed. The bill was ordered engrossed.

House Bill 1473

Representative Kersey called down House Bill 1473 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1463

Representative Whetstone called down House Bill 1463 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1463-1)

Mr. Speaker: I move that House Bill 1463 be amended to read as follows:

Page 3, between lines 9 and 10, begin a new paragraph and insert:
 "SECTION 9. IC 4-32-7-4 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The
 department has the sole authority to license entities under this article
 to sell, distribute, or manufacture the following:

- (1) Bingo cards.
- (2) Bingo boards.
- (3) Bingo sheets.
- (4) Bingo pads.
- (5) Any other supplies, devices, or equipment designed to be
 used in playing bingo designated by rule of the department.
- (6) Pull tabs.
- (7) Punchboards.
- (8) Tip boards.

(b) Qualified organizations must obtain the materials described in
 subsection (a) only from an entity licensed by the department.

(c) The department may not limit the number of qualified entities
 licensed under subsection (a).

**(d) A qualified organization may sell only pull tabs,
 punchboards, and tip boards that are obtained in compliance
 with the requirements set forth in IC 4-32-15-3.5."**

Page 7, line 28, delete "section." and insert "**subsection.**".

Page 7, line 28, delete "In addition," and insert "**Except as
 provided in subsections (c) and (d),**".

Page 7, line 29, delete "section." and insert "**subsection.**".

Page 7, between lines 30 and 31, begin a new paragraph and
 insert:

**"(c) A student selling raffle tickets on behalf of the student's
 school may receive points or prizes awarded by the school based
 upon the number of raffle tickets sold by the student.**

(d) If a school:

**(1) purchases property from an individual for the purpose
 of using the property as a prize in a raffle conducted under
 this article; and**

**(2) designates the individual to sell tickets for the raffle on
 behalf of the school;**

**the individual may receive the fair market value of the property
 in the transaction described in subdivision (1)."**

Page 7, line 34, delete "All net proceeds from an allowable".

Page 7, delete lines 35 through 36, begin a new paragraph and
 insert:

**"(b) All net proceeds from an allowable event and related
 activities may only be used for the lawful purposes of the qualified
 organization."**

Page 7, line 37, delete "(b)" and insert "**(c)**".

Page 7, delete lines 40 through 42, begin a new line block indented
 and insert:

**"(1) An amount equal to the total value of the prizes
 awarded at the allowable event.**

**(2) An amount equal to the total value of the door prizes
 awarded at the allowable event.**

(3) The amount of the qualified organization's license fees

attributable to the allowable event as determined under subsection (f)."

Page 8, between lines 3 and 4, begin a new line block indented and insert:

"(5) An amount equal to the qualified organization's allowable expenditures for the allowable event as permitted under section 16.3 of this chapter."

Page 8, line 4, delete "(c)" and insert "(d)".

Page 8, line 23, delete "(d)" and insert "(e)".

Page 8, between lines 25 and 26, begin a new paragraph and insert:

"(f) To determine the amount of a qualified organization's license fees that are attributable to a particular allowable event, the qualified organization shall divide:

(1) the amount of the qualified organization's license fee for the license under which the allowable event is held; by

(2) the number of allowable events held under the license.

(g) A qualified organization's allowable expenditures subtracted under subsection (b)(5) must be supported by receipts or other evidence required by the department. The allowable expenditures are subject to audit and review by the department.

(h) A rule of the department concerning the amount of a qualified organization's charity gaming proceeds that must be used for the qualified organization's charitable purposes that does not contain provisions substantially similar to subsection (b) is void."

Page 8, after line 42, begin a new paragraph and insert:

"SECTION 19. IC 4-32-9-16.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.3. (a) A qualified organization's allowable expenditures for an allowable event are limited to the following:

(1) Rent as permitted under section 20 of this chapter.

(2) Expenditures for the lease of personal property used to conduct the allowable event. Expenditures under this subdivision may not exceed fifty dollars (\$50) per allowable event.

(3) Reasonable expenditures for consumables used at the allowable event that are unrelated to the qualified organization's gaming operations, including cups, plates, napkins, cleaning supplies, and other similar items.

(4) Reasonable advertising expenditures.

(5) Reasonable expenditures related to providing security personnel for the allowable event.

(b) A qualified organization may not employ more than three (3) security personnel at an allowable event."

Page 9, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 21. IC 4-32-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) Except as provided in subsection (d), if facilities are leased for an allowable event, the rent may not:

(1) be based in whole or in part on the revenue generated from the event; or

(2) exceed two hundred dollars (\$200) per day.

(b) A facility may not be rented for more than three (3) days during a calendar week for an allowable event.

(c) If personal property is leased for an allowable event, the rent may not be based in whole or in part on the revenue generated from the event.

(d) If a qualified organization conducts an allowable event in conjunction with or at the same facility where the qualified organization or its affiliate is having a convention or other meeting of its membership, facility rent for the allowable event may exceed two hundred dollars (\$200) per day. A qualified organization may conduct only one (1) allowable event under this subsection in a calendar year.

(e) A lease of a facility for an allowable event:

(1) must be in writing;

(2) must be between the owner of the facility and a qualified organization; and

(3) may not be a sublease.

(f) This subsection applies to leases entered into after June 30, 2003. If a qualified organization leases a facility by the year to be used for allowable events and to:

(1) hold the qualified organization's meetings;

(2) conduct the qualified organization's business; and

(3) carry out all other functions of the qualified organization;

the maximum rent amount set forth in subsection (a) applies to each day that the qualified organization occupies the leased facility. The annual rent for a facility described in this subsection may not exceed seventy-three thousand dollars (\$73,000).

SECTION 22. IC 4-32-9-21, AS AMENDED BY P.L.129-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) Except where a qualified organization or its affiliate is having a convention or other annual meeting of its membership, a qualified organization may only conduct an allowable event in the county where the principal office of the qualified organization is located. The principal office of a qualified organization shall be determined as follows:

(1) Except as provided in subdivision (3) or subdivision (4), if a qualified organization is a corporation, the principal office shall be determined by the street address of the corporation's registered office on file with the secretary of state.

(2) If a qualified organization is not a corporation, the principal office shall be determined by the street address of the organization on file with the Internal Revenue Service, the department, or county property tax assessment board of appeals for tax exempt purposes.

(3) If a qualified organization is affiliated with a parent organization that:

(A) is organized in Indiana; and

(B) has been in existence for at least five (5) years; the principal office shall be determined by the principal place of business of the qualified organization.

(4) If a qualified organization is affiliated with a parent organization that:

(A) is a nationally recognized charitable organization;

(B) serves a majority of counties in Indiana; and

(C) has been in existence for at least twenty-five (25) years; the principal office shall be deemed to be present in every county served by the organization.

(b) If a qualified organization is considered to have a principal office in more than one (1) county, the qualified organization is limited to one (1) license under this article per day. An officer of the qualified organization who lives in the county in which a proposed allowable event will be held must sign the application for the license to conduct the allowable event."

Page 10, line 11, reset in roman "(a) The total prizes".

Page 10, reset in roman line 12.

Page 10, line 13, reset in roman "exceed".

Page 10, line 13, after "(\$2,000)." insert "five thousand dollars (\$5,000)."

Page 10, line 14, reset in roman "(b)".

Page 10, line 14, delete "(a)".

Page 10, line 17, reset in roman "(c)".

Page 10, line 17, delete "(b)".

Page 10, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 35. IC 4-32-9-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 34. (a) Except as provided in subsection (b), the following persons may not play or participate in any manner in an allowable event:

(1) An employee of the department.

(2) A person less than eighteen (18) years of age.

(b) A person less than eighteen (18) years of age may sell tickets or chances for a raffle.

(c) A qualified organization may not allow a person less than eighteen (18) years of age, including a person employed by a third party caterer, to serve food or drinks in the area where gaming is conducted or to interact with the participants in an allowable event in the area where gaming is conducted."

Page 11, between lines 22 and 23, begin a new paragraph and

insert:

"SECTION 26. IC 4-32-9-37 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 37. (a) Except as provided in subsection (b), a qualified organization may not conduct any activity relating to the qualified organization's charity gaming operations on the Internet.**

(b) A qualified organization may advertise an allowable event on the Internet.

SECTION 27. IC 4-32-9-38 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 38. (a) A qualified organization may accept only United States currency and coin from players participating in an allowable event.**

(b) A qualified organization may not extend credit to a player at an allowable event."

Page 14, after line 39, begin a new paragraph and insert:

"SECTION 33. IC 4-32-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3. The department shall establish procedures by which each licensed entity must account for the following:**

- (1) The tax collected under this chapter by the licensed entity.
- (2) The **serial numbers or other distinguishing numbers or identification marks of the** pull tabs, punchboards, and tip boards sold by the licensed entity.
- (3) The funds received for sales of pull tabs, punchboards, and tip boards by the licensed entity.

SECTION 34. IC 4-32-15-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. The department shall establish procedures by which each qualified organization must account for the following:**

- (1) **The serial numbers or other distinguishing numbers or identification marks of the pull tabs, punchboards, and tip boards purchased by the qualified organization.**
- (2) **The amounts paid for the purchase of pull tabs, punchboards, and tip boards by the qualified organization."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1463 as printed February 28, 2003.)

WHETSTONE

Motion prevailed.

HOUSE MOTION (Amendment 1463-2)

Mr. Speaker: I move that House Bill 1463 be amended to read as follows:

Page 3, after line 9, begin a new paragraph and insert:

"Section 9. IC 4-32-8-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. Prior to adopting any change in its rules governing licensees under IC 4-32-9-5, the department shall notify each entity to which it has issued a license under IC 9-32-9-5 of the proposed rule change.**

Renumber all SECTIONS consecutively.

(Reference is to HB 1463 as printed February 28, 2003.)

SAUNDERS

Representative Pelath rose to a point of order, citing Rule 117.2, stating that the motion was not timely filed. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

House Bill 1459

Representative C. Brown called down House Bill 1459 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1459-3)

Mr. Speaker: I move that House Bill 1459 be amended to read as

follows:

Page 1, line 8, delete "." and insert "**or through any public or private energy assistance program for which an eligibility requirement is a household income that does not exceed two hundred percent (200%) of the monthly federal income poverty level for a household.**"

Page 3, line 28, delete "." and insert "**and information on other assistance that may be available to the customer through any public or private agency.**"

Page 4, line 32, delete "." and insert "**or through any public or private energy assistance program for which an eligibility requirement is a household income that does not exceed two hundred percent (200%) of the monthly federal income poverty level for a household.**"

4, line 36, after "of" insert ":

(1)".

Page 4, line 37, delete "," and insert "; or

(2) any other public or private energy assistance program for which an eligibility requirement is a household income that does not exceed two hundred percent (200%) of the monthly federal income poverty level for a household;".

Page 4, line 37, before "a" begin a new line blocked left.

(Reference is to HB 1459 as printed February 27, 2003.)

C. BROWN

Motion prevailed.

HOUSE MOTION (Amendment 1459-2)

Mr. Speaker: I move that House Bill 1459 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-12-1-14.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14.2. Notwithstanding any other law, all oil overcharge funds received from the federal government are annually appropriated to the division of family and children for the division's use in carrying out the home energy assistance program. The amount of this annual appropriation for a state fiscal year is equal to:**

(1) the total amount necessary to carry out the program during that fiscal year, **including any amount needed to provide a temporary source of funding for the energy assistance contingency fund under IC 12-14-11.1;** minus

(2) the amount of federal low income energy assistance funds available for the program during that state fiscal year.

SECTION 2. IC 4-12-1-14.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14.4. (a) As used in this section, "heating fuel sales" means all residential and commercial sales of natural gas and heating oil for heating purposes.**

(b) As used in this section, "baseline measure" means:

(1) **forty-nine and one hundred ninety-two thousandths percent (49.192%) of the state gross retail tax collected on heating fuel sales between July 1, 1999, and June 30, 2002, as determined by the department of state revenue; divided by**

(2) three (3).

(c) Notwithstanding any other law, there is annually appropriated to the energy assistance contingency fund established by IC 12-14-11.1-1 an amount equal to:

(1) **forty-nine and one hundred ninety-two thousandths percent (49.192%) of the state gross retail tax collected on heating fuel sales during the preceding fiscal year as determined by the department of state revenue; minus**

(2) the baseline measure.

SECTION 3. IC 6-2.5-10-1, AS AMENDED BY P.L.192-2002(ss), SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. (a) The department shall account for all state gross retail and use taxes that**

it collects.

(b) The department shall deposit those collections in the following manner:

- (1) Fifty percent (50%) of the collections shall be paid into the property tax replacement fund established under IC 6-1.1-21.
- (2) **Except as provided in subsection (c)**, forty-nine and one hundred ninety-two thousandths percent (49.192%) of the collections shall be paid into the state general fund.
- (3) Six hundred thirty-five thousandths of one percent (0.635%) of the collections shall be paid into the public mass transportation fund established by IC 8-23-3-8.
- (4) Thirty-three thousandths of one percent (0.033%) of the collections shall be deposited into the industrial rail service fund established under IC 8-3-1.7-2.
- (5) Fourteen-hundredths of one percent (0.14%) of the collections shall be deposited into the commuter rail service fund established under IC 8-3-1.5-20.5.

(c) **The department shall transfer forty-nine and one hundred ninety-two thousandths percent (49.192%) of the state gross retail taxes that are collected on heating fuel sales (as defined in IC 4-12-1-14.4(a)) to the auditor of state for distribution to the energy assistance contingency fund established by IC 12-14-11.1-1. The auditor of state shall hold all amounts transferred by the department under this subsection and shall distribute the amount determined under IC 4-12-1-14.4(c) to the energy assistance contingency fund on or before June 30. On July 1, the auditor of state shall transfer the remaining amount to the department for deposit in the state general fund."**

Page 5, after line 9, begin a new paragraph and insert:

"SECTION 6. IC 12-14-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The home energy assistance programs are to provide assistance, including emergency assistance, to low income households in Indiana to:

- (1) defray home energy costs; and
- (2) ~~provide assistance to low income households; for~~ **implement** home energy conservation measures.

SECTION 7. IC 12-14-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The division shall do the following:

- (1) Administer an appropriation made for the purposes specified in section 4 of this chapter.
- (2) Receive and administer money that may be available to the state for energy and conservation assistance from the federal government.
- (3) Establish criteria to determine eligibility for assistance under this chapter.
- (4) **Administer the energy assistance contingency fund established by IC 12-14-11.1-1.**

SECTION 8. IC 12-14-11.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 11.1. Energy Assistance Contingency Fund

Sec. 1. There is established the energy assistance contingency fund.

Sec. 2. As used in this chapter, "dwelling" means an individual residence, including a manufactured home or a room or combination of rooms, with facilities for living for a single household.

Sec. 3. As used in this chapter, "eligible household" means a household whose income is at or below two hundred percent (200%) of the most recently determined poverty income guidelines established by the Federal Office of Management and Budget, as revised periodically by the United States Secretary of Health and Human Services under 42 U.S.C. 9902(2).

Sec. 4. As used in this chapter, "fund" refers to the energy assistance contingency fund.

Sec. 5. As used in this chapter, "grantee" means a party with whom the division contracts to provide services under this chapter.

Sec. 6. As used in this chapter, "home energy" has the meaning set forth in IC 12-14-11-2.

Sec. 7. As used in this chapter, "home energy efficiency measure" means a particular device, technology, or service that is installed or used at the dwelling of an eligible household to reduce the amount of home energy consumed by the household for heating or cooling. The term includes materials used in building design or retrofitting.

Sec. 8. As used in this chapter, "household" means any individual or group of individuals who live together as a single economic unit and who:

- (1) purchase home energy in common; or
- (2) make undesignated payments for home energy in the form of rent.

Sec. 9. The division shall administer the fund in accordance with IC 12-14-11. The division shall allocate the fund between low income home energy assistance and low income home energy efficiency measures.

Sec. 10. (a) Notwithstanding section 9 of this chapter, the division shall allocate at least twenty-five percent (25%) of the fund to low income home energy efficiency measures.

(b) The division shall use not more than ten percent (10%) of the allocation under subsection (a) for program administration. The division shall make available at least fifty percent (50%) of the program administration funds to grantees.

(c) Notwithstanding subsection (b), the division may provide an additional five percent (5%) of the allocation under subsection (a) to grantees for program administration if the division determines that the additional amount is necessary to effectively administer the program.

Sec. 11. (a) Notwithstanding section 9 of this chapter, the division shall allocate not more than seventy-five percent (75%) of the fund to low income home energy assistance.

(b) The division shall distribute not more than ten percent (10%) of the allocation under subsection (a) to grantees for program administration.

(c) The division shall distribute not more than five percent (5%) of the allocation under subsection (a) to grantees for program support.

Sec. 12. (a) The division may designate to the fund all or a part of the oil overcharge funds appropriated under IC 4-12-1-14.2 if the appropriation to the fund under IC 4-12-1-14.4 is delayed due to a delay by the department of state revenue in collecting the gross retail tax on heating fuel sales.

(b) If the division makes a designation under subsection (a), the division shall pay the designated amount to the oil overcharge fund after the division receives the appropriation under IC 4-12-1-14.4.

Sec. 13. Any money remaining in the fund at the end of a fiscal year does not revert to the state general fund.

Sec. 14. The division may adopt rules under IC 4-22-2 to implement this chapter."

Renumber all SECTIONS consecutively.

(Reference is to HB 1459 as printed February 27, 2003.)

FRIZZELL

Representative Pelath rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 1459 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

There being no further amendments, the bill was ordered engrossed.

House Bill 1418

Representative Budak called down House Bill 1418 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1418-1)

Mr. Speaker: I move that House Bill 1418 be amended to read as follows:

Page 1, after line 16, begin a new paragraph and insert: **"(c) The bureau of motor vehicles shall not impose points under the point**

system for a violation of this section."

(Reference is to HB 1418 as printed February 26, 2003.)

BUDAK

Motion prevailed. The bill was ordered engrossed.

The Speaker yielded the gavel to the Deputy Speaker Pro Tempore, Representative Harris.

House Bill 1371

Representative Moses called down House Bill 1371 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1371-1)

Mr. Speaker: I move that House Bill 1371 be amended to read as follows:

Page 2, after line 36, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE JULY 1, 2003] (a) **This SECTION applies to an annexation that meets the following conditions:**

(1) **The annexation ordinance was adopted before July 1, 1999.**

(2) **The annexation ordinance postpones the effective date of the annexation more than five (5) years.**

(3) **The postponed effective date of the annexation according to the terms of the ordinance is after June 30, 2003.**

(b) **This SECTION does not apply to an annexation under IC 36-4-3-4.1 or IC 36-4-3-5.**

(c) **An annexation described in subsection (a) is void.**

(d) **This SECTION expires July 1, 2005."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1371 as printed February 27, 2003.)

ALDERMAN

Upon request of Representatives Alderman and Pond, the Chair ordered the roll of the House to be called. Roll Call 281: yeas 51, nays 43. Motion prevailed.

Representative Moses withdrew the call of House Bill 1371.

House Bill 1322

Representative Porter called down House Bill 1322 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1322-2)

Mr. Speaker: I move that House Bill 1322 be amended to read as follows:

Page 1, line 3, delete "the" and insert **"six thousand seven hundred dollars (\$6,700) per student enrolled in the nonconversion charter school."**

Page 1, delete lines 4 through 9.

(Reference is to HB 1322 as printed February 27, 2003.)

STINE

Upon request of Representatives Porter and Crawford, the Chair ordered the roll of the House to be called. Roll Call 282: yeas 37, nays 61. Motion failed.

HOUSE MOTION
(Amendment 1322-1)

Mr. Speaker: I move that House Bill 1322 be amended to read as follows:

Page 1, line 5, after "(1)" delete **"Six million dollars (\$6,000,000)."**

Page 1, line 5, after "(1)" insert **"Eighteen million dollars (\$18,000,000)"**

(Reference is to HB 1322 as printed February 27, 2003.)

BEHNING

Upon request of Representatives Porter and Crawford, the Chair ordered the roll of the House to be called. Roll Call 283: yeas 35, nays 61. Motion failed. The bill was ordered engrossed.

House Bill 1281

Representative Ayres called down House Bill 1281 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1281-1)

Mr. Speaker: I move that House Bill 1281 be amended to read as follows:

Page 2, after line 22, begin a new sub-paragraph and insert:

"(6) One member from a regional planning group from each region through which the Indiana toll road passes. Each of the members under this subsection shall not have voting privileges on the committee. Each of the members under this subsection shall serve without compensation."

(Reference is to HB 1281 as printed February 25, 2003.)

AYRES

Motion prevailed. The bill was ordered engrossed.

House Bill 1231

Representative Duncan called down House Bill 1231 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1231-1)

Mr. Speaker: I move that House Bill 1231 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-33-2-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. 5. "Law enforcement agency" means any of the following:

(1) The gaming enforcement officers of the Indiana gaming commission.

(2) The state police department.

(3) The conservation officers of the department of natural resources.

(4) The state excise police of the alcohol and tobacco commission."

Page 2, line 34, delete "and".

Page 2, between lines 34 and 35, begin a new line block indented and insert:

"(2) the salaries and other expenses of staff required to support the enforcement officers and auditors described in subdivision (3); and"

Page 2, line 35, delete "(2)" and insert **"(3)"**.

Page 3, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 4. IC 4-33-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) Before January 1, 2005, the state police department shall assist the commission in conducting background investigations of applicants. The commission shall reimburse the state police department for the costs incurred by the state police department as a result of the assistance. The commission shall make the payment from fees collected from applicants.

(b) After December 31, 2004, the commission through its enforcement officers shall conduct background investigations of applicants. Costs incurred conducting the investigations must be paid from fees collected from applicants."

Page 3, line 41, delete "secretary of the commission." and insert **"director."**

Page 4, line 18, delete "the commission" and insert **"a law enforcement agency"**.

Page 4, line 19, delete "board" and insert **"commission"**.

Page 4, line 23, delete "the commission;" and insert **"a law enforcement agency;"**.

Page 4, line 25, delete "the commission." and insert **"a law enforcement agency."**

Page 12, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 15. IC 5-14-3-4, AS AMENDED BY P.L.1-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
 - (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
 - (3) Those required to be kept confidential by federal law.
 - (4) Records containing trade secrets.
 - (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
 - (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
 - (7) Grade transcripts and license examination scores obtained as part of a licensure process.
 - (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
 - (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.
 - (10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.
 - (11) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):
 - (A) Telephone number.
 - (B) Social Security number.
 - (C) Address.
 - (12) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.
 - (13) Information concerning an investigation conducted under IC 4-33 by the gaming enforcement officers of the Indiana gaming commission.**
- (b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:
- (1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.
 - (2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:
 - (A) a public agency;
 - (B) the state; or
 - (C) an individual.
 - (3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.
 - (4) Scores of tests if the person is identified by name and has not consented to the release of his scores.
 - (5) The following:
 - (A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.
 - (B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a

commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

- (6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.
- (7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.
- (8) Personnel files of public employees and files of applicants for public employment, except for:
 - (A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;
 - (B) information relating to the status of any formal charges against the employee; and
 - (C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

- (9) Minutes or records of hospital medical staff meetings.
- (10) Administrative or technical information that would jeopardize a recordkeeping or security system.
- (11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.
- (12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).
- (13) The work product of the legislative services agency under personnel rules approved by the legislative council.
- (14) The work product of individual members and the partisan staffs of the general assembly.
- (15) The identity of a donor of a gift made to a public agency if:

- (A) the donor requires nondisclosure of his identity as a condition of making the gift; or
- (B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

- (16) Library or archival records:
 - (A) which can be used to identify any library patron; or
 - (B) deposited with or acquired by a library upon a condition that the records be disclosed only:
 - (i) to qualified researchers;
 - (ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or
 - (iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

- (17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles,

the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:
 - (A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or
 - (B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) Notwithstanding subsection (e) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business."

Renumber all SECTIONS consecutively.

(Reference is to HB 1231 as printed February 26, 2003.)

LYTLE

Motion prevailed. The bill was ordered engrossed.

The Deputy Speaker Pro Tempore yielded the gavel to the Speaker.

House Bill 1128

Representative Pelath called down House Bill 1128 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1128-1)

Mr. Speaker: I move that House Bill 1128 be amended to read as follows:

- Page 1, delete lines 1 through 17.
- Page 2, delete lines 1 through 16.
- Page 2, line 17, delete "IC 16-21-3-5" and insert "IC 16-21-2-16".
- Page 2, line 19, delete "5." and insert "16."
- Page 2, line 23, delete ", in a font size specified by the".
- Page 2, line 24, delete "department of insurance,".
- Page 2, line 25, after "," insert "and".
- Page 2, line 26, delete "; and" and insert ".".
- Page 2, delete lines 27 through 42.
- Page 3, delete lines 1 through 4.
- Page 3, line 5, delete "IC 16-25-5-10" and insert "IC 16-25-3-11".
- Page 3, line 7, delete "10." and insert "11."

Page 3, line 11, delete ", in a font size specified by the".

Page 3, line 12, delete "department of insurance,".

Page 3, line 13, after "," insert "and".

Page 3, line 14, delete "; and" and insert ".".

Page 3, delete lines 15 through 33.

Page 3, line 34, delete "IC 16-27-1-18" and insert "IC 16-27-1-17".

Page 3, line 36, delete "18." and insert "17."

Page 3, line 39, delete ", in a font size specified by the".

Page 3, line 40, delete "department of insurance,".

Page 3, line 41, after "," insert "and".

Page 3, line 42, delete "; and" and insert ".".

Page 4, delete lines 1 through 18.

Page 4, line 19, delete "IC 16-28-2-11" and insert "IC 16-28-2-10".

Page 4, line 21, delete "11." and insert "10."

Page 4, line 24, delete ", in a font size specified by the".

Page 4, line 25, delete "department of insurance,".

Page 4, line 26, after "," insert "and".

Page 4, line 27, delete "; and" and insert ".".

Page 4, delete lines 28 through 42.

Page 5, delete lines 1 through 3.

Page 5, line 4, delete "IC 25-1-9-20" and insert "IC 25-1-9-19".

Page 5, line 6, delete "20." and insert "19."

Page 5, line 9, delete ", in a font size specified by the".

Page 5, line 10, delete "department of insurance,".

Page 5, line 11, after "," insert "and".

Page 5, line 12, delete "; and" and insert ".".

Page 5, delete lines 13 through 42.

Delete pages 6 through 10.

Renumber all SECTIONS consecutively.

(Reference is to HB 1128 as printed February 26, 2003.)

PELATH

Motion prevailed. The bill was ordered engrossed.

House Bill 1098

Representative Mahern called down House Bill 1098 for second reading. The bill was reread a second time by title.

HOUSE MOTION (Amendment 1098-9)

Mr. Speaker: I move that House Bill 1098 be amended to read as follows:

Page 1, delete lines 1 through 15.

Page 3, line 18, reset in roman "(a) As used in this section, "threshold".

Page 3, reset in roman lines 19 through 24.

Page 3, line 25, reset in roman "(b)".

Page 3, line 25, delete "(a)".

Page 3, line 33, reset in roman "in an".

Page 3, reset in roman line 34.

Page 3, line 35, reset in roman "in actual value to or for the committee,".

Page 5, line 23, reset in roman "(c)".

Page 5, line 23, delete "(b)".

Page 6, delete lines 21 through 24.

Renumber all SECTIONS consecutively.

(Reference is to HB 1098 as reprinted February 28, 2003.)

RESKE

Upon request of Representatives Murphy and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 284: yeas 51, nays 48. Motion prevailed.

HOUSE MOTION (Amendment 1098-8)

Mr. Speaker: I move that House Bill 1098 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-9-1-25, AS AMENDED BY P.L.176-1999, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. (a) A member of a committee

that has appointed a treasurer in accordance with this chapter may solicit or receive contributions as long as the member immediately turns over the contributions without diminution to the treasurer of the committee, to be disbursed and accounted for by the treasurer as provided by this article. The treasurer shall show, in the treasurer's account and statement and in addition to the requirements of IC 3-9-5, through what member of the committee any contributions were received.

(b) A contribution is considered to be received and accepted by a committee when any member of the committee:

(1) has physical possession of the contribution; and

(2) manifests an intent to keep the contribution by depositing the contribution, subject to IC 3-9-5-14(c). IC 3-9-5-14(b)."

Page 3, line 3, strike "(a) As used in this section, "threshold".

Page 3, strike lines 4 through 9.

Page 3, line 10, strike "(b)" and insert "(a)".

Page 3, line 18, strike "in an".

Page 3, strike line 19.

Page 3, line 20, strike "in actual value to or for the committee,"

Page 5, line 8, strike "(c)" and insert "(b)".

Page 6, after line 5, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE JULY 1, 2003] (a) IC 3-9-5-14, as amended by this act, applies to political contributions made after December 31, 2003.

(b) This SECTION expires July 1, 2005."

(Reference is to 1098 as printed February 21, 2003.)

MURPHY

Upon request of Representatives Murphy and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 285: yeas 48, nays 50. Motion failed.

HOUSE MOTION (Amendment 1098-6)

Mr. Speaker: I move that House Bill 1098 be amended to read as follows:

Delete the amendment made on motion of Representative Murphy adopted February 25, 2003.

Page 3, line 6, strike "one".

Page 3, line 7, strike "hundred dollars (\$100)." and insert "**twenty dollars (\$20).**"

Page 3, line 8, strike "two".

Page 3, line 9, strike "hundred dollars (\$200)." and insert "**forty dollars (\$40).**"

Page 6, after line 5, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JULY 1, 2003] (a) **IC 3-9-5-14, as amended by this act, applies to political contributions made after December 31, 2003.**

(b) **This SECTION expires July 1, 2005."**

(Reference is to HB 1098 as printed February 21, 2003, and as amended on motion of Representative Murphy adopted February 25, 2003.)

MURPHY

Upon request of Representatives Murphy and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 286: yeas 48, nays 51. Motion failed.

HOUSE MOTION (Amendment 1098-3)

Mr. Speaker: I move that House Bill 1098 be amended to read as follows:

Page 2, line 14, after "party committee," insert "**or**".

Page 2, line 15, delete ", or a political action committee." and insert "."

Page 2, after line 42, begin a new paragraph and insert:

"(c) **For purposes of subsection (b), the following apply:**

(1) **A political action committee is considered affiliated with another political action committee if either political action committee has transferred funds to the other political action committee.**

(2) **The contributions of a political action committee are:**

(A) **considered the contributions of each affiliated political action committee; and**

(B) subject to the limits described in subsection (b)."

(Reference is to HB 1098 as printed February 21, 2003.)

MURPHY

Upon request of Representatives Murphy and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 287: yeas 46, nays 53. Motion failed.

HOUSE MOTION (Amendment 1098-1)

Mr. Speaker: I move that House Bill 1098 be amended to read as follows:

Page 2, after line 42, begin a new paragraph and insert:

"SECTION 2. IC 3-9-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) This section applies after December 31, 2003.**

(b) As used in this section, "employee" has the meaning set forth in Section 3401(c) of the Internal Revenue Code.

(c) As used in this section, "employer" has the meaning set forth in Section 3401(d) of the Internal Revenue Code.

(d) An employer (including a corporation) may not deduct any part of an employee's compensation to make a political contribution without the written consent of the employee.

(e) The written consent required under subsection (d) must satisfy all the following:

(1) The consent must explicitly state that the employee wants to make political contributions as stated in the consent.

(2) The consent must be signed by the employee.

(3) The consent must be given separately for each year that the employee wants to make a political contribution.

(f) The consent required under subsection (d) is revocable at any time by the employee.

(g) Not later than February 1 of each year, an employer must provide a report to an employee who has had political contributions deducted from the employee's compensation during the previous calendar year under this section. The report must include the following information:

(1) The date of each contribution.

(2) The amount of each contribution.

(3) The name of the candidate or political committee to which each contribution was made.

(4) The party affiliation of each candidate or political committee to which each contribution was made.

SECTION 3. IC 3-9-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with the election division a report in the manner required under IC 3-9-5.

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(12) Is an employer that violates IC 3-9-2-14.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of any contributions received.
- (2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that an employer has violated IC 3-9-2-14, the commission shall assess a civil penalty against the employer equal to three (3) times the amount of the political contribution made in violation of IC 3-9-2-14, plus any investigative costs incurred and documented by the commission.

(h) All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

~~(h)~~ (i) Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 4. IC 3-9-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

- (1) Fails to file with a county election board a report in the manner required under IC 3-9-5.
- (2) Fails to file a statement of organization required under IC 3-9-1.
- (3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.
- (4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions in the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Is an employer that violates IC 3-9-2-14.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the county election board determines that a person failed to file the report or a statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the county election board may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the county election board determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the board shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the county election board determines that a person is subject to a civil penalty under subsection (a), the board may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the board.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the county election board determines that a person is subject to a civil penalty under subsection (a)(5), the board may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the board.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the county election board determines that an employer has violated IC 3-9-2-14, the county election board shall assess a civil penalty against the employer equal to three (3) times the amount of the political contribution made in violation of IC 3-9-2-14, plus any investigative costs incurred and documented by the board.

(g) All civil penalties collected under this section shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account to be known as the campaign finance enforcement account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the funds appropriated for the administration of this article.

~~(g)~~ (h) Money in the campaign finance enforcement account does not revert to the county general fund at the end of a county fiscal year.

~~(h)~~ (i) Proceedings of the county election board under this section are subject to IC 4-21.5."

Renumber all SECTIONS consecutively.

(Reference is to HB 1098 as printed February 21, 2003.)

T. BROWN

Upon request of Representatives T. Brown and Friend, the Speaker ordered the roll of the House to be called. Roll Call 288: yeas 48, nays 49. Motion failed. The bill was ordered engrossed.

House Bill 1126

Representative Pelath called down House Bill 1126 for second reading. The bill was read a second time by title.

**HOUSE MOTION
(Amendment 1126-3)**

Mr. Speaker: I move that House Bill 1126 be amended to read as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 4-15-2-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. (a) Any regular employee may file a complaint if his status of employment is involuntarily changed or if he deems conditions of employment to be unsatisfactory. However, the complaint procedure shall be initiated as soon as possible after the occurrence of the act or condition complained of and in no event shall be initiated more than thirty (30) calendar days after the employee is notified of a change in his status of employment or after an unsatisfactory condition of employment is created. Failure to initiate the complaint procedure within such time period shall render the complaint procedure unavailable to the employee. The following complaint procedure shall be followed:

Step I: The complaint procedure shall be initiated by a discussion of the complaint by the employee and his immediate supervisor and, if a mutually satisfactory settlement has not been made within two (2) consecutive working days, such complaint may be referred to Step II.

Step II: The complaint shall be reduced to writing and presented to the intermediate supervisor. If a mutually satisfactory settlement has not been reached within four (4) consecutive working days, such complaint may then be referred to the Appointing Authority.

Step III: The Appointing Authority or his designated representative shall hold such hearings and conduct such investigations as he deems necessary to render a decision and shall make such decision in writing within ten (10) consecutive working days.

Step IV: Should the appointing authority or his designated representative not find in favor of the employee, the complaint may be submitted within fifteen (15) calendar days to the state personnel director. The director or his designee shall review the complaint and render a decision within fifteen (15) calendar days. If the decision is not agreeable to the employee, an appeal may be submitted by the employee in writing to **either** the commission **or arbitration** no later than fifteen (15) calendar days from the date the employee has been given notice of the action taken by the personnel director or his designee.

~~After submission of the appeal;~~ **Step V: (A) If an employee elects to submit the appeal to the commission,** the commission shall, prior to rendering its decision, grant the appealing employee and the appointing authority a public hearing, with the right to be represented and to present evidence. With respect to all appeals, the commission shall render its decision within thirty (30) days after the date of the hearing on the appeal. If the commission finds that the action against the employee was taken on the basis of politics, religion, sex, age, race or because of membership in an employee organization, the employee shall be reinstated to his position without loss of pay. In all other cases, **unless judicial review of the decision is requested in accordance with IC 4-21.5-5,** the appointing authority shall follow the **recommendation decision** of the commission which may include reinstatement and payment of salary or wages lost by the employee which may be mitigated by any wages the employee earned from other employment during a dismissed or suspended period.

If the recommendation of the commission is not agreeable to the employee, the employee, within fifteen (15) calendar days from receipt of the commission recommendation, may elect to submit the complaint to arbitration. The cost of arbitration shall be shared equally by the employee and the state of Indiana. The commissioner of labor shall prepare a list of three (3) impartial individuals trained

in labor relations; and from this list each party shall strike one (1) name. The remaining arbitrator shall consider the issues which were presented to the commission and shall afford the parties a public hearing with the right to be represented and to present evidence. The arbitrator's findings and recommendations shall be binding on both parties and shall immediately be instituted by the commission.

Step V: (B) If an employee elects to submit the appeal to arbitration, an arbitrator must be selected from:

- (i) the American Arbitration Association; or
- (ii) the Federal Mediation and Conciliation Service, if an arbitrator is not available from the American Arbitration Association;

according to selection procedures established by the arbitrator's association or service. The costs of arbitration under this Step shall be shared equally by the employer and the employee or the employee's representative.

Step VI: The decision of the commission under Step V(A) or the arbitrator under Step V(B) is a final order subject to judicial review in accordance with IC 4-21.5-5. The commission's or arbitrator's decision in Step V is binding unless a party requests judicial review.

(b) An employee who files a complaint under subsection (a) may choose a representative who is inside or outside of the employee's agency or facility to represent the employee during Steps III through VI of the complaint procedure.

(c) If the employer does not comply with the timelines set forth in subsection (a), the employee's complaint proceeds to the next Step of the complaint procedure.

(d) Subsections (e) through (k) apply to an individual who is employed as a teacher in a state institution under:

- (1) IC 11-10-5;
- (2) IC 12-24-3;
- (3) IC 16-33-3;
- (4) IC 16-33-4;
- (5) IC 20-15; or
- (6) IC 20-16.

(e) Instead of the grievance procedure described in subsections (a) through (c), the grievance procedure established by subsections (f) through (k) applies to a teacher who is described in subsection (d).

(f) If a teacher wishes to file a grievance concerning an action taken by the teacher's employer, the grievance must be filed according to the following procedure:

- (1) The teacher may file a grievance with the teacher's immediate supervisor not more than thirty (30) working days after the action taken by the employer occurs.
- (2) The immediate supervisor shall respond to a grievance filed under subdivision (1) not more than two (2) working days after the immediate supervisor receives the grievance.
- (3) If the teacher is dissatisfied with the response under subdivision (2), the teacher may file a written grievance with the teacher's intermediate supervisor.
- (4) The intermediate supervisor shall respond to a written grievance filed under subdivision (3) not more than four (4) working days after the intermediate supervisor receives the written grievance.
- (5) If the teacher is dissatisfied with the response under subdivision (4), the teacher may file a written grievance with the superintendent of the institution in which the teacher is employed.
- (6) The superintendent shall respond to a written grievance filed under subdivision (5) not more than ten (10) working days after the superintendent receives the written grievance.
- (7) If the teacher is dissatisfied with the response under subdivision (6), the teacher may file a written grievance with the state personnel director appointed under IC 4-15-1.8-3 not more than fifteen (15) working days after the teacher receives the response under subdivision (6).
- (8) The state personnel director shall respond to a written grievance filed under subdivision (7) not more than fifteen (15) working days after the state personnel director

receives the written grievance.

(9) If the teacher is dissatisfied with the response under subdivision (8), the teacher may file a written grievance with the state employees' appeals commission under 33 IAC 1 not more than fifteen (15) working days after the teacher receives the response under subdivision (8). In the alternative, the teacher may submit the grievance directly to arbitration as described in subdivision (11).

(10) The state employees' appeals commission shall set a hearing date on the written grievance filed under subdivision (9) not more than thirty (30) working days after the state employees' appeals commission receives the written grievance and shall render a decision not more than thirty (30) working days after the date of the hearing unless this period is extended by the written consent of all parties.

(11) If the teacher is dissatisfied with the response under subdivision (10), the teacher may submit the grievance to arbitration not more than fifteen (15) working days after the teacher receives the response under subdivision (10).

(12) The arbitrator to whom the grievance is submitted under subdivision (9) or (11) shall hold a hearing and shall render a decision not more than thirty (30) working days after the hearing.

(g) An arbitrator to whom a grievance is submitted under subsection (f)(9) or (f)(11) must be selected from:

- (1) the American Arbitration Association; or
- (2) the Federal Mediation and Conciliation Service, if an arbitrator is not available from the American Arbitration Association;

according to selection procedures established by the arbitrator's association or service.

(h) Costs of arbitration under subsections (f) through (k) shall be shared equally by the employer and the teacher or the teacher's organization.

(i) If the employer does not comply with the timelines set forth in subsection (f), the grievance proceeds to the next step of the procedure.

(j) A teacher who files a grievance under subsections (f) through (k) may choose a representative from inside or outside the institution to represent the teacher in subdivisions (f)(5) through (f)(12) of the grievance procedure under subsections (f) through (k).

(k) The decision of the arbitrator is a final order subject to judicial review in accordance with IC 4-21.5-5."

Delete pages 2 through 4.

Page 5, delete lines 1 through 4.

Page 6, line 3, after "seq.;" insert "and".

Page 6, line 4, after "completed" insert ":

(A) before January 1, 2004,".

Page 6, line 4, after "years" insert "; or

(B) after December 31, 2003, fifteen (15) years;".

Page 6, line 4, left beginning with "of" begin a new line block indented.

Page 6, line 7, delete ";" and insert ".".

Page 6, line 7, strike "and".

Page 6, strike lines 8 through 10.

Renumber all SECTIONS consecutively.

(Reference is to HB 1126 as printed February 28, 2003.)

PELATH

Motion prevailed.

HOUSE MOTION (Amendment 1126-1)

Mr. Speaker: I move that House Bill 1126 be amended to read as follows:

Page 8, after line 30, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JULY 1, 2003] (a) This SECTION applies to a school corporation:

- (1) in which the contract between the school corporation and the certificated employees of the school corporation expires after June 30, 2003, and before July 1, 2004; and
- (2) that has not entered into a new contract with the

certificated employees of the school corporation before July 1, 2003.

(b) A school corporation to which this SECTION applies:

(1) may continue to pay each teacher only the salary to which the teacher was entitled under the expired contract; and

(2) is not required to pay a salary increment to a teacher."

(Reference is to HB 1126 as printed February 28, 2003.)

THOMPSON

After discussion, Representative Thompson withdrew the motion.

There being no further amendments, the bill was ordered engrossed.

House Bill 1232

Representative Duncan called down House Bill 1232 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1232-1)

Mr. Speaker: I move that House Bill 1232 be amended to read as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 9.

Page 3, line 7, strike "may" and insert "shall".

Page 3, delete lines 37 through 42.

Delete page 4.

Page 5, delete lines 1 through 2.

Page 5, between lines 2 and 3, begin a new paragraph and insert: "SECTION 3. IC 9-30-5-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.5. (a) This section does not apply to a person with a conviction under section 4 or 5 of this chapter.

(b) If a court recommends suspension of a person's driving privileges under section 10 of this chapter and the court does not stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges as provided in section 12(a) or 12(c) of this chapter, the person may obtain probationary driving privileges as provided in subsection (c).

(c) An order for probationary driving privileges shall be granted if a person whose driving privileges are suspended under subsection (b) satisfies the burden of proof under subsection (e). The person who seeks a restricted driving permit under this section must first file a verified petition averring that the person:

(1) will not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device; and

(2) has installed or will install not later than thirty (30) days after the filing of the verified petition a functioning certified ignition interlock device on the person's primary vehicle.

A copy of the petition shall be provided to the prosecuting attorney in the county in which the verified petition is filed. The prosecuting attorney shall represent the state in the hearing under subsection (d).

(d) When a petition is filed under subsection (c), the court shall conduct a hearing not later than forty-five (45) days after receiving the petition.

(e) The petitioner bears the burden of proving the elements under subsection (c) and IC 9-24-15-2(2) by a preponderance of the evidence."

Page 5, line 16, after "(b)" insert "An order for probationary driving privileges granted under:

(1) section 12(a) of this chapter if the person has a previous conviction that occurred at least ten (10) years before the conviction under consideration by the court; or

(2) section 12(c) of this chapter;

must include a requirement that the person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(c)".

Page 5, line 22, strike "subsection (b)," and insert "**subsections (b) and (c).**"

Page 5, line 27, delete "The court shall order that a person convicted under section" and insert "**In granting probationary driving privileges under this chapter, a court shall also order that the probationary driving privileges include the requirement that a person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8 if the person has a prior unrelated conviction for an offense under this chapter for which alcohol is an element of the offense.**"

Page 5, delete lines 28 through 30.

Page 5, between lines 40 and 41, begin a new paragraph and insert:

SECTION 6. IC 9-30-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the court enters an order conditionally deferring charges under section 3 of this chapter, the court may do the following:

(1) Suspend the person's driving privileges for at least two (2) years but not more than four (4) years.

(2) Impose other appropriate conditions, including the payment of fees imposed under section 8 of this chapter.

(b) Notwithstanding IC 9-30-6-9, the defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least one (1) year. **If the court grants probationary driving privileges for an offense under IC 9-30-5, the court must include as a condition of the probationary license that the person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.**

(c) A person may be granted probationary driving privileges as set forth in IC 9-30-5-12.5 if the court does not stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges under subsection (b).

SECTION 7. IC 9-30-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) If the court refers a defendant to the program under section 6 of this chapter, the court may do the following:

(1) Suspend the defendant's driving privileges for at least ninety (90) days but not more than four (4) years.

(2) Impose other appropriate conditions.

(b) The defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least thirty (30) days under IC 9-30-6-9. **If the court grants probationary driving privileges for an offense under IC 9-30-5, the court must include as a condition of the probationary license that the person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.**

(c) A person may be granted probationary driving privileges as set forth in IC 9-30-5-12.5 if the court does not stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges under subsection (b).

Page 5, delete lines 41 through 42.

Delete pages 6 through 8.

Renumber all SECTIONS consecutively.

(Reference is to HB 1232 as printed February 28, 2003.)

KUZMAN

Motion prevailed. The bill was ordered engrossed.

House Bill 1241

Representative Kuzman called down House Bill 1241 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1982

Representative Orentlicher called down House Bill 1982 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1982-1)

Mr. Speaker: I move that House Bill 1982 be amended to read as follows:

Page 3, between lines 11 and 12, begin a new paragraph and insert:

"(g) If the board does not meet the goals under subsection (c) because the board makes a determination under subsection (f), the board may not invest the amount that the board was not able to invest in venture capital investments in Indiana in venture capital investments outside Indiana. The board may invest the amount that the board was not able to invest in venture capital investments in Indiana in other investments that the board determines are financially and fiscally prudent."

Page 3, line 12, delete "(g)" and insert "(h)".

Page 5, between lines 32 and 33, begin a new paragraph and insert:

"Sec. 9. If the board does not meet the goals under section 5 of this chapter because the board makes a determination under section 8 of this chapter, the board may not invest the amount that the board was not able to invest in venture capital investments in Indiana in venture capital investments outside Indiana. The board may invest the amount that the board was not able to invest in venture capital investments in Indiana in other investments that the board determines are financially and fiscally prudent."

Page 5, line 33, delete "9." and insert "10."

(Reference is to HB 1982 as printed February 27, 2003.)

TURNER

Motion failed.

HOUSE MOTION (Amendment 1982-2)

Mr. Speaker: I move that House Bill 1982 be amended to read as follows:

Page 6, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 6. P.L.192-2002(ss), SECTION 207, IS REPEALED [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]."

SECTION 7. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] IC 6-3.1-24, as added by P.L.192-2002(ss), SECTION 119, and as amended by this act, applies to taxable years beginning after December 31, 2002."

Page 6, after line 38, begin a new paragraph and insert:

"SECTION 8. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1982 as printed February 27, 2003.)

TURNER

Representative Pelath rose to a point of order, citing Rule 118, stating that the motion was attempting to incorporate into House Bill 1982 a bill pending before the House. The Speaker ruled the point was well taken and the motion was out of order.

HOUSE MOTION (Amendment 1982-4)

Mr. Speaker: I move that House Bill 1982 be amended to read as follows:

Page 4, delete lines 12 through 42.

Page 5, delete lines 1 through 33.

Page 6, line 36, delete "and" and insert ",".

Page 6, line 37, delete "IC 20-12-0.7, both".

Page 6, line 37, delete "apply" and insert "applies".

Renumber all SECTIONS consecutively.

(Reference is to HB 1982 as printed February 27, 2003.)

SCHOLER

Motion failed. The bill was ordered engrossed.

House Bill 1425

Representative Dvorak called down House Bill 1425 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1434

Representative Welch called down House Bill 1434 for second reading. The bill was reread a second time by title.

HOUSE MOTION
(Amendment 1434-2)

Mr. Speaker: I move that House Bill 1434 be amended to read as follows:

Page 6, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 15. IC 9-19-11-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. The bureau may not assess points under the point system for a violation of this chapter.**"

Renummer all SECTIONS consecutively.

(Reference is to HB 1434 as reprinted February 21, 2003.)

WELCH

Motion prevailed.

HOUSE MOTION
(Amendment 1434-3)

Mr. Speaker: I move that House Bill 1434 be amended to read as follows:

Page 3, line 5, strike "who:" and insert "**who**".

Page 3, line 6, delete "**(1)**".

Page 3, line 6, delete "**license;**" and insert "**license**".

Page 3, line 7, delete "**(2)**".

Page 3, line 7, strike "less then" and insert "**shall**".

Page 3, run in lines 6 through 7.

Page 3, line 8, before "four" insert "**(1) if the child is less than**".

Page 3, line 8, strike "age who is not properly fastened and restrained" and insert "**age; and**".

Page 3, line 9, delete "**according to the manufacturer's instructions**" insert "**(2) the child weighs less than eighty (80) pounds or is less than four (4) feet, nine (9) inches tall;**".

Page 3, line 9, strike "by a child".

Page 3, strike "restraint system;"

Page 3, line 11, strike "commits a" and insert "**properly fasten and restrain the child according to the manufacturer's instructions by a child restraint system.**".

Page 3, line 11, delete "**Class C**".

Page 3, line 11, strike "infraction, unless".

Page 3, line 12, strike "the child".

Page 3, delete line 13.

Page 3, line 14, delete "**nine (9) inches tall.**".

Page 3, delete lines 15 through 17.

Page 3, line 21, strike "commits a".

Page 3, line 21, delete "**Class C**".

Page 3, line 21, strike "infraction if" and insert "**shall**".

Page 3, line 22, after "(1)" insert "**if**".

Page 3, line 22, strike "age and" and insert "age; and;"

Page 3, line 23, strike "the child".

Page 3, line 24, before "weighs" insert "**(2) the child**".

Page 3, line 25, strike "and".

Page 3, line 26, beginning with "(2)" begin a new line blocked left.

Page 3, line 26, strike "(2) the child is not".

Page 3, line 26, strike "fastened and restrained" and insert "fasten and restrain the child".

Page 3, line 27, strike "a:" and insert "a".

Page 3, line 28, delete "**(A)**".

Page 3, line 28, delete "seat:" and insert "seat".

Page 3, line 29, delete "**(B)**".

Page 3, run in lines 26 through 29.

Page 3, delete lines 30 through 32.

Page 3, line 37, delete "**commits a Class C infraction if:**" and insert "**shall:**".

Page 3, line 38, after "(1)" insert "**if**".

Page 3, line 40, delete "**the child is not properly fastened and restrained according**" and insert "**the child weighs less than eighty (80) pounds or is less than four (4) feet, nine (9) inches tall;**".

Page 3, delete lines 41 through 42.

Page 4, delete line 1.

Page 4, line 2, delete "**unless the child weighs more than eighty (80) pounds or is more**" and insert "**properly fasten and restrain the child according to the manufacturer's instructions by a child restraint system or child booster seat.**".

Page 4, delete lines 3 through 6.

Page 4, line 11, delete "**commits a Class C infraction if:**" and insert "**shall:**".

Page 4, line 12, before "**the**" insert "**if**".

Page 4, line 13, after "**age;**" insert "**and**".

Page 4, line 15, delete "**tall.**" and insert "**tall;**".

Page 4, line 16, beginning with "**(3)**" begin a new line blocked left.

Page 4, line 16, delete "**(3) the child is not properly fastened and restrained**" and insert "**properly fasten and restrain the child**".

Page 4, run in lines 16 through 17.

Page 4, delete lines 18 through 20.

Page 4, line 26, delete "**who is not properly fastened**" and insert "**shall properly fasten**".

Page 4, line 27, delete "**restrained**" and insert "**restrain the child**".

Page 4, line 30, delete "**belt;**" and insert "**belt.**".

Page 4, delete lines 31 through 34.

Page 4, line 41, delete "**commits a Class C infraction if:**" and insert "**shall**".

Page 4, line 42, delete "**(1)**" and insert "**if**".

Page 4, run in lines 41 through 42.

Page 5, line 1, delete "**age; and**" and insert "**age**".

Page 5, line 2, delete "**(2) the child is not properly fastened and restrained**" and insert "**properly fasten and restrain the child**".

Page 5, run in lines 1 through 3.

Page 5, line 4, delete "**(A)**" and insert "**(1)**".

Page 5, line 5, delete "**(B)**" and insert "**(2)**".

Page 5, line 6, delete "**(C)**" and insert "**(3)**".

Page 5, between lines 6 and 7, begin a new paragraph and insert:
"SECTION 15. IC 9-19-11-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. The bureau may not assess points under the point system for a violation of this chapter.**"

Page 5, delete lines 7 through 42.

Page 6, delete lines 1 through 39.

(Reference is to HB 1434 as reprinted February 21, 2003.)

RIPLEY

Motion failed. The bill was ordered engrossed.

House Bill 1465

Representative L. Lawson called down House Bill 1465 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1465-1)

Mr. Speaker: I move that House Bill 1465 be amended to read as follows:

Page 4, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 2. IC 5-10.3-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3. (a) Except as provided in subsection (b),** the pension relief fund may be used only for making payments to cities, counties, towns, and townships, referred to as "units of local government" in this chapter, having pension funds established under IC 18-1-12, IC 19-1-18, IC 19-1-24, IC 19-1-25-4, IC 19-1-30, IC 19-1-37, or IC 19-1-44. Payments received by the units **under this subsection** may be used only for pension payments.

(b) In addition to the payments described in subsection (a), after December 31, 2003, units of local government shall receive payments from the pension relief fund for the purpose of making the payments required by IC 36-8-6-9.7(f), IC 36-8-6-10.1(h), IC 36-8-7-12.3(g), IC 36-8-7-12.4(j), IC 36-8-7.5-13.7(h), IC 36-8-7.5-14.1(l), IC 36-8-8-13.9(d), IC 36-8-8-14.1(h), and IC 36-8-10-16.5. The units shall use the payments received under this subsection only for making the payments required by IC 36-8-6-9.7(f), IC 36-8-6-10.1(h), IC 36-8-7-12.3(g), IC 36-8-7-12.4(j), IC 36-8-7.5-13.7(h), IC 36-8-7.5-14.1(l),

IC 36-8-8-13.9(d), IC 36-8-8-14.1(h), and IC 36-8-10-16.5.

SECTION 3. IC 5-10.3-11-4.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.9. (a) In addition to the amounts distributed under sections 4, 4.5, and 4.7 of this chapter, for years beginning after December 31, 2003, the state board shall distribute from the pension relief fund to each unit of local government an amount sufficient to make the payments required by IC 36-8-6-9.7(f), IC 36-8-6-10.1(h), IC 36-8-7-12.3(g), IC 36-8-7-12.4(j), IC 36-8-7.5-13.7(h), IC 36-8-7.5-14.1(i), IC 36-8-8-13.9(d), IC 36-8-8-14.1(h), and IC 36-8-10-16.5."**

Page 6, line 8, after "child," insert "a".

Page 6, line 9, after "or" insert "an".

Page 6, line 10, after "(3)." insert **"In addition to any other distributions that a unit of local government receives under IC 5-10.3-11, a unit of local government shall receive from the pension relief fund established by IC 5-10.3-11-1 an amount sufficient to make the payments required by this subsection."**

Page 8, line 2, after "child," insert "a".

Page 8, line 3, after "or" insert "an".

Page 8, line 4, after "(3)." insert **"In addition to any other distributions that a unit of local government receives under IC 5-10.3-11, a unit of local government shall receive from the pension relief fund established by IC 5-10.3-11-1 an amount sufficient to make the payments required by this subsection."**

Page 10, line 4, after "child," insert "a".

Page 10, line 5, after "or" insert "an".

Page 10, line 6, after "(3)." insert **"In addition to any other distributions that a unit of local government receives under IC 5-10.3-11, a unit of local government shall receive from the pension relief fund established by IC 5-10.3-11-1 an amount sufficient to make the payments required by this subsection."**

Page 12, line 8, after "child," insert "a".

Page 12, line 9, after "or" insert "an".

Page 12, line 10, after "(3)." insert **"In addition to any other distributions that a unit of local government receives under IC 5-10.3-11, a unit of local government shall receive from the pension relief fund established by IC 5-10.3-11-1 an amount sufficient to make the payments required by this subsection."**

Page 13, line 41, after "child," insert "a".

Page 13, line 42, after "or" insert "an".

Page 14, line 1, after "(3)." insert **"In addition to any other distributions that a unit of local government receives under IC 5-10.3-11, a unit of local government shall receive from the pension relief fund established by IC 5-10.3-11-1 an amount sufficient to make the payments required by this subsection."**

Page 16, line 6, after "child," insert "a".

Page 16, line 7, after "or" insert "an".

Page 16, line 8, after "(3)." insert **"In addition to any other distributions that a unit of local government receives under IC 5-10.3-11, a unit of local government shall receive from the pension relief fund established by IC 5-10.3-11-1 an amount sufficient to make the payments required by this subsection."**

Page 17, line 31, after "child," insert "a".

Page 17, line 32, after "or" insert "an".

Page 17, line 33, after "(3)." insert **"In addition to any other distributions that a unit of local government receives under IC 5-10.3-11, a unit of local government shall receive from the pension relief fund established by IC 5-10.3-11-1 an amount sufficient to make the payments required by this subsection."**

Page 19, line 31, after "child," insert "a".

Page 19, line 32, after "or" insert "an".

Page 19, line 33, after "(3)." insert **"In addition to any other distributions that a unit of local government receives under IC 5-10.3-11, a unit of local government shall receive from the pension relief fund established by IC 5-10.3-11-1 an amount sufficient to make the payments required by this subsection."**

Page 20, line 15, after "child," insert "a".

Page 20, line 16, after "or" insert "an".

Page 20, line 17, after "(3)." insert **"In addition to any other distributions that a county receives under IC 5-10.3-11, a county**

shall receive from the pension relief fund established by IC 5-10.3-11-1 an amount sufficient to make the payments required by this subsection."

Page 20, after line 17, begin a new paragraph and insert:

"SECTION 13. [EFFECTIVE JULY 1, 2003] (a) The public employees' retirement fund board of trustees established by IC 5-10.3-3-1 shall adopt rules under IC 5-10.3-3-8(a)(1) to implement IC 5-10.3-11-3, as amended by this act, and IC 5-10.3-11-4.9, as added by this act, not later than January 1, 2004.

(b) This SECTION expires January 2, 2004."

Renumber all SECTIONS consecutively.

(Reference is to HB 1465 as printed February 27, 2003.)

BUELL

The Speaker ordered a division of the House and appointed Representatives Stilwell and Bosma to count the yeas and nays. Yeas 48, nays 50. Motion failed. The bill was ordered engrossed.

House Bill 1523

Representative Dobis called down House Bill 1523 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1523-1)

Mr. Speaker: I move that House Bill 1523 be amended to read as follows:

Page 2, line 27, strike "(c)." and insert "(c). The PERF board shall produce a schedule within which it shall bring into the provisions of this section all funds for which it has responsibility."

(Reference is to HB 1523 as printed February 20, 2003.)

WHETSTONE

Motion prevailed. The bill was ordered engrossed.

House Bill 1528

Representative Kuzman called down House Bill 1528 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1532

Representative Goodin called down House Bill 1532 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1532-1)

Mr. Speaker: I move that House Bill 1532 be amended to read as follows:

Page 1, line 14, delete "field".

Page 3, line 13, delete "Field".

Page 3, line 14, delete "field".

Page 3, line 14, delete "shall" and insert "may".

Page 3, line 37, delete "field".

Page 3, line 40, delete "field".

Page 4, line 1, delete "field".

Page 4, line 7, delete "field".

Page 4, line 7, delete "may" and insert "shall".

Page 4, line 11, delete "field".

Page 4, line 12, delete "field".

Page 4, line 14, delete "field".

Page 4, line 16, delete "field".

Page 4, line 23, delete "field".

Page 4, delete lines 24 through 36, begin a new paragraph and insert:

"Sec. 4. (a) Each community corrections advisory board may establish continuing education requirements for community corrections officers in the county or counties that the board serves.

(b) If a community corrections advisory board establishes continuing education requirements under this section, the board must offer at least three (3) hours of continuing education each calendar year."

Page 5, line 16, delete "field".

(Reference is to HB 1532 as printed February 27, 2003.)

GOODIN

Motion prevailed. The bill was ordered engrossed.

House Bill 1544

Representative Fry called down House Bill 1544 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1544-2)

Mr. Speaker: I move that House Bill 1544 be amended to read as follows:

Page 4, line 25, after "Discuss." insert "(a)".

Page 4, between lines 39 and 40, begin a new paragraph and insert:

"(b) The obligation to bargain collectively any matter does not prevent any school employee from petitioning the:

- (1) school employer;**
- (2) governing body; or**
- (3) superintendent;**

for a redress of the employee's grievances either individually or through the exclusive representative, nor does the obligation prevent the school employer or superintendent from conferring with any citizen, taxpayer, student, school employee, or other person considering the operation of the schools and the school corporation."

Page 9, line 37, after "representative" insert ":

(1)".

Page 9, line 40, delete "that the exclusive representative intends to use" and insert **"; and**

(2) shall utilize".

Page 9, delete line 41.

Page 9, line 42, delete "(1) The" and insert **"the".**

Page 9, run in lines 40 and 42.

Page 10, line 1, delete "chapter." and insert **"chapter, unless the exclusive representative, at the time impasse is declared by either party, elects to use".**

Page 10, line 2, delete "(2) The" and insert **"the".**

Page 10, run in lines 1 through 2.

Page 10, line 21, delete "ninety (90)" and insert **"one hundred eighty (180)".**

(Reference is to HB 1544 as printed February 28, 2003.)

FRY

Motion prevailed. The bill was ordered engrossed.

House Bill 1654

Representative Bardon called down House Bill 1654 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1654-1)

Mr. Speaker: I move that House Bill 1654 be amended to read as follows:

Page 2, after line 35, begin a new paragraph and insert:

"SECTION 3. IC 28-8-4-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 47. (a) Notwithstanding any other provision of law, all information or reports obtained by the director from an applicant, a licensee, or an authorized delegate, whether obtained through reports, applications, examination, audits, investigation, or otherwise, including but not limited to:

(1) all information contained in or related to:

- (A) examination;**
- (B) investigation;**
- (C) operation; or**
- (D) condition reports prepared by, on behalf of, or for the use of the director; or**

(2) financial statements, balance sheets, or authorized delegate information;

are confidential and may not be disclosed or distributed outside the department by the director or any officer or employee of the

department, except as provided in subsection (b).

(b) The director may provide for the release of information to representatives of state or federal:

- (1) financial institution supervisory agencies;**
- (2) law enforcement agencies; or**
- (3) prosecutorial agencies or offices;**

who state in writing under oath that they shall be required to maintain the confidentiality of the information if: as described in IC 28-1-2-30.

(1) the licensee provides consent before the release; or

(2) the director finds that the release is reasonably necessary for the protection of the public and in the interests of justice; and the licensee has been given prior notice by the director to release the information.

(c) Nothing in this section shall prohibit the director from releasing to the public a list of persons licensed under this chapter or from releasing aggregated financial data on such licensees."

(Reference is to HB 1654 as printed February 18, 2003.)

BARDON

Motion prevailed. The bill was ordered engrossed.

House Bill 1671

Representative Bottorff called down House Bill 1671 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1671-1)

Mr. Speaker: I move that House Bill 1671 be amended to read as follows:

Page 5, delete lines 13 through 42.

Delete page 6.

Page 7, line 5, delete **"one hundred"**, reset in roman **"(\$1,000), and delete (\$1,100)".**

Page 7, line 7, delete **"forty"**, reset in roman **(\$400), and delete (\$440)".**

Page 7, line 13, reset in roman **"\$240"** and delete **"\$264".**

Page 7, line 14, reset in roman **"\$360"** and delete **"\$396".**

Page 7, line 15, reset in roman **"\$840"** and delete **"\$928".**

Page 7, line 16, reset in roman **"\$1,200"** and delete **"\$1,320".**

Page 7, line 17, reset in roman **"\$1,680"** and delete **"\$1,848".**

Page 7, line 18, reset in roman **"\$2,060"** and delete **"\$2,266".**

Page 7, line 19, reset in roman **"\$3,600"** and delete **"\$3,960".**

Page 7, line 20, reset in roman **"\$5,400"** and delete **"\$5,940".**

Page 7, line 21, reset in roman **"\$8,400"** and delete **"\$9,240".**

Page 7, line 22, reset in roman **"\$12,000"** and delete **"\$13,200".**

Page 7, line 23, reset in roman **"\$16,800"** and delete **"\$18,480".**

Page 7, line 24, reset in roman **"\$22,800"** and delete **"\$25,080".**

Page 7, line 25, reset in roman **"\$28,800"** and delete **"\$31,680".**

Page 7, line 26, reset in roman **"\$34,800"** and delete **"\$38,280".**

Page 7, delete lines 31 through 42.

Page 8, delete lines 1 through 11.

Page 8, line 18, reset in roman **"\$31,300"** and delete **"\$34,430".**

Page 8, line 20, reset in roman **"\$20,000"** and delete **"\$22,000".**

Page 8, line 22, reset in roman **"\$31,300"** and delete **"\$34,430".**

Page 8, line 23, reset in roman **"\$31,300"** and delete **"\$34,430".**

Page 8, line 24, reset in roman **"\$20,000"** and delete **"\$22,000".**

Page 8, line 26, reset in roman **"\$12,150"** and delete **"\$13,365".**

Page 8, line 27, reset in roman **"\$12,150"** and delete **"\$13,365".**

Page 8, line 28, reset in roman **"\$28,650"** and delete **"\$31,515".**

Page 8, line 30, reset in roman **"\$500"** and delete **"\$550".**

Page 8, line 31, reset in roman **"\$200"** and delete **"\$220".**

Page 8, line 33, reset in roman **"\$25"** and delete **"\$28".**

Page 8, line 35, reset in roman **"\$15,350"** and delete **"\$16,885".**

Page 8, line 37, reset in roman **"\$7,150"** and delete **"\$7,865".**

Page 8, line 39, reset in roman **"\$15,350"** and delete **"\$16,885".**

Page 8, line 40, reset in roman **"\$15,350"** and delete **"\$16,885".**

Page 8, line 41, reset in roman **"\$7,150"** and delete **"\$7,865".**

Page 9, line 1, reset in roman **"\$2,200"** and delete **"\$2,420".**

Page 9, line 2, reset in roman **"\$2,200"** and delete **"\$2,420".**

Page 9, line 3, reset in roman **"\$5,900"** and delete **"\$6,490".**

Page 9, line 4, reset in roman **"\$200"** and delete **"\$220".**

Page 9, line 6, reset in roman "\$2,500" and delete "\$2,750".
 Page 9, line 17, reset in roman "\$35,000" and delete "\$38,500".
 Page 9, line 18, reset in roman "\$15,000" and delete "\$16,500".
 Page 9, line 19, reset in roman "\$7,000" and delete "\$7,700".
 Page 9, line 20, reset in roman "\$2,000" and delete "\$2,200".
 Page 9, line 22, reset in roman "\$1,500" and delete "\$1,650".
 Page 9, line 24, reset in roman "\$35,000" and delete "\$38,500".
 Page 9, line 25, reset in roman "\$25,000" and delete "\$27,500".
 Page 9, line 26, reset in roman "\$10,000" and delete "\$11,000".
 Page 9, line 28, reset in roman "\$2,000" and delete "\$2,200".
 Page 9, line 29, reset in roman "\$2,000" and delete "\$2,200".
 Page 9, line 31, reset in roman "\$35,000" and delete "\$38,500".
 Page 9, line 32, reset in roman "\$15,000" and delete "\$16,500".
 Page 9, line 33, reset in roman "\$7,000" and delete "\$7,700".
 Page 9, line 34, reset in roman "\$2,000" and delete "\$2,200".
 Page 9, line 36, reset in roman "\$5,000" and delete "\$5,500".
 Page 9, line 38, reset in roman "\$500" and delete "\$550".
 Page 9, line 40, reset in roman "\$25" and delete "\$28".
 Page 9, line 42, reset in roman "\$250" and delete "\$275".
 Page 10, line 11, reset in roman "\$0.10" and delete "\$0.20".
 Page 10, line 13, reset in roman "\$0.10" and delete "\$0.20".
 Page 10, line 15, reset in roman "\$0.05" and delete "\$0.10".
 Page 10, line 17, reset in roman "\$0.10" and delete "\$0.20".
 Page 12, delete lines 23 through 42.
 Page 13, delete lines 1 through 11.
 Renumber all SECTIONS consecutively.
 (Reference is to HB 1671 as printed February 28, 2003.)

HEIM

Upon request of Representatives Heim and Bosma, the Speaker ordered the roll of the House to be called. Roll Call 289: yeas 45, nays 53. Motion failed.

HOUSE MOTION (Amendment 1671-3)

Mr. Speaker: I move that House Bill 1671 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-21.5-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The office of environmental adjudication is established to review, under this article, decisions of the commissioner of the department of environmental management.

(b) The office of environmental adjudication shall:

(1) conduct adjudicatory hearings required to implement:

(+) (A) air pollution control laws (as defined in IC 13-11-2-6), water pollution control laws (as defined in IC 13-11-2-261), environmental management laws (as defined in IC 13-11-2-71), and IC 13-19; and

(+) (B) rules of:

- (+) (i) the air pollution control board;
- (+) (ii) the water pollution control board;
- (+) (iii) the solid waste management board; and
- (+) (iv) the financial assurance board; and

shall be conducted by the office of environmental adjudication under IC 4-21-5.

(2) notify a board referred to in subdivision (1)(B) of a final order of the office of environmental adjudication that interprets:

- (A) a rule of the board; or
- (B) a statute under which a rule of the board is authorized.

SECTION 2. IC 4-22-2-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) The Indiana economic development council may review and comment on any proposed rule and may suggest alternatives to reduce any regulatory burden that the proposed rule imposes on businesses. The agency that intends to adopt the proposed rule shall respond in writing to the Indiana economic development council concerning the council's comments or suggested alternatives before adopting the proposed rule under section 29 of this chapter.

(b) The agency shall also submit a proposed rule with an estimated

economic impact greater than five hundred thousand dollars (\$500,000) on the regulated entities to the legislative services agency after the preliminary adoption of the rule. **Except as provided in subsection (c),** before the adoption of the rule, the legislative services agency shall prepare, not more than forty-five (45) days after receiving a proposed rule, a fiscal analysis concerning the effect that compliance with the proposed rule will have on the:

- (1) state; and
- (2) entities regulated by the proposed rule.

The fiscal analysis must contain an estimate of the economic impact of the proposed rule and a determination concerning the extent to which the proposed rule creates an unfunded mandate on a state agency or political subdivision. The fiscal analysis is a public document. The legislative services agency shall make the fiscal analysis available to interested parties upon request. The agency proposing the rule shall consider the fiscal analysis as part of the rulemaking process and shall provide the legislative services agency with the information necessary to prepare the fiscal analysis. The legislative services agency may also receive and consider applicable information from the regulated entities affected by the rule in preparation of the fiscal analysis.

(c) With respect to a proposed rule subject to IC 13-14-9:

- (1) the department of environmental management shall give written notice to the legislative services agency of the proposed date of preliminary adoption of the proposed rule not less than sixty-six (66) days before that date; and
- (2) the legislative services agency shall prepare the fiscal analysis referred to in subsection (b) not later than twenty-one (21) days before the proposed date of preliminary adoption of the proposed rule."

Page 2, delete lines 35 through 42.

Page 3, delete lines 1 through 36, begin a new paragraph and insert:

"SECTION 7. IC 13-14-1-11.5, AS AMENDED BY P.L.261-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.5. (a) If the department utilizes a policy or statement that:

- (1) interprets, supplements, or implements a statute or rule;
- (2) has not been adopted in compliance with IC 4-22-2;
- (3) is not intended by the department to have the effect of law; and
- (4) is not related solely to internal department organization;

the proposed policy or statement may not be put into effect until the requirements of subsection (b) have been met.

(b) The department shall present the proposed policy or statement under subsection (a) to the appropriate board. At least forty-five (45) days before the presentation, the department shall make available to the public, including posting on the department's web site:

- (1) the proposed policy or statement;
- (2) the availability for public inspection of all materials relied upon by the department in the development of the proposed policy or statement, including, if applicable:
 - (A) health criteria;
 - (B) analytical methods;
 - (C) treatment technology;
 - (D) economic impact data;
 - (E) environmental assessment data; and
 - (F) other background data;
- (3) the date, time, and location of the presentation under this subsection to the appropriate board; and
- (4) the opportunity for a person to comment to the department and the appropriate board on the proposed policy or statement before or at the time of the presentation under this subsection.

The department shall provide to the appropriate board at the time of the presentation under this subsection a copy of all comments made by a person under subdivision (4). The proposed policy or statement may not be put into effect until thirty (30) days after the policy or statement is made available for public inspection and comment and presented to the appropriate board.

~~(b)~~ **(c)** If the department utilizes a policy or statement described in subsection (a), the department shall distribute:

- (1) two (2) copies of the policy or statement to the publisher of the Indiana Register for publication in the Indiana Register; and
- (2) the copies required under IC 4-23-7.1-26 to the Indiana library and historical department.

~~(c)~~ **(d)** The department shall:

- (1) maintain a current list of all department policies and statements described in subsection (a) that the department may use in the department's external affairs; and
- (2) update the list at least one (1) time each month.

~~(d)~~ **(e)** The department shall include the following information on the list described in subsection ~~(c)~~ **(d)** for each policy or statement:

- (1) The title of the policy or statement.
- (2) The identification number of the policy or statement.
- (3) The date the policy or statement was originally adopted.
- (4) The date the policy or statement was last revised.
- (5) A reference to all other policies or statements described in subsection (a) that are repealed or amended by the policy or statement.
- (6) A brief description of the subject matter of the policy or statement.

~~(e)~~ **(f)** At least one (1) time every three (3) months, the department shall distribute two (2) copies of the list maintained and updated under subsection ~~(d)~~ **(e)** to the following:

- (1) The publisher of the Indiana Register.
- (2) The Indiana library and historical department.

SECTION 8. IC 13-14-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The department shall provide notice in the Indiana Register of the first public comment period required by section 2 of this chapter. A notice provided under this section must do the following:

- (1) Identify the authority under which the proposed rule is to be adopted.
- (2) Describe the subject matter and the basic purpose of the proposed rule. The description required by this subdivision must:

(A) include a listing of all alternatives being considered by the department at the time of the notice; ~~and must~~

(B) include:

- (i) a statement indicating whether each alternative listed under clause (A) is imposed under federal law;**
- (ii) a statement explaining how each alternative listed under clause (A) that is not imposed under federal law differs from federal law; and**
- (iii) any information known to the department about the potential fiscal impact of each alternative under clause (A) not imposed under federal law; and**

(C) set forth the basis for each alternative listed under clause (A).

- (3) Describe the relevant statutory or regulatory requirements or restrictions relating to the subject matter of the proposed rule that exist before the adoption of the proposed rule.

- (4) Request the submission of alternative ways to achieve the purpose of the proposed rule.

- (5) Request the submission of comments, including suggestions of specific language for the proposed rule.

- (6) Include a detailed statement of the issue to be addressed by adoption of the proposed rule.

SECTION 9. IC 13-14-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The department shall provide notice in the Indiana Register of the second public comment period required by section 2 of this chapter. A notice provided under this section must do the following:

- (1) Contain the full text of the proposed rule, as provided under IC 4-22-2-24(c).

- (2) Contain a summary of the response of the department to written comments submitted under section 3 of this chapter during the first public comment period.

- (3) Request the submission of comments, including suggestions of specific amendments to the language contained in the proposed rule.

- (4) Contain the full text of the commissioner's written findings under section 7 of this chapter, if applicable.

(5) Identify each element of the proposed rule that imposes a restriction or requirement on persons to whom the proposed rule applies that is not imposed under federal law.

(6) With respect to each element identified under subdivision (5), identify:

(A) the environmental circumstance or hazard that dictates the imposition of the proposed restriction or requirement to protect human health and the environment;

(B) examples in which federal law is inadequate to provide the protection referred to in clause (A); and

(C) the:

(i) estimated fiscal impact; and

(ii) expected benefits;

based on the extent to which the proposed rule exceeds the requirements of federal law.

(7) For any element of the proposed rule that imposes a restriction or requirement that is not imposed under federal law, describe the availability for public inspection of all materials relied upon by the department in the development of the proposed rule, including, if applicable:

(A) health criteria;

(B) analytical methods;

(C) treatment technology;

(D) economic impact data;

(E) environmental assessment data;

(F) analyses of methods to effectively implement the proposed rule; and

(G) other background data.

SECTION 10. IC 13-14-9-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.2. **Not less than fourteen (14) days before the date of preliminary adoption of a proposed rule by a board, the department shall make available to the board the fiscal analysis prepared by the legislative services agency under IC 4-22-2-28(c).**

SECTION 11. IC 13-14-9-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) Except for a rule:

- (1) that has been preliminarily adopted by a board in a form that is:

(A) identical to; or

(B) not substantively different from;

the proposed rule published in a second notice under section 4 of this chapter; or

- (2) for which the commissioner has made a determination and prepared written findings under section 7 or 8 of this chapter; a board may not adopt a rule under this chapter until the board has conducted a third public comment period that is at least twenty-one (21) days in length.

(b) The department shall publish notice of a third public comment period with the:

(1) text; ~~and~~

(2) summary; and

(3) fiscal analysis;

that are required to be published in the Indiana Register under section 5(a)(2) of this chapter.

(c) The notice of a third public comment period that must be published in the Indiana Register under subsection (b) must request the submission of comments, including suggestions of specific amendments, that concern only the portion of the preliminarily adopted rule that is substantively different from the language contained in the proposed rule published in a second notice under section 4 of this chapter.

SECTION 12. IC 13-14-9.5-1.1, AS ADDED BY P.L.146-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.1. (a) This section applies to the following:

- (1) A rule that is required to receive or maintain:

- (A) delegation;
- (B) primacy; or
- (C) approval;

for state implementation or operation of a program established under federal law.

(2) A rule that is required to begin or continue receiving federal funding for the implementation or operation of a program.

(b) A rule described in subsection (a) does not expire under this chapter.

(c) In the seventh year after the effective date of a rule or an amendment to a rule described in subsection (a), the department shall publish a notice in the Indiana Register. The notice may contain a list of several rules that have been effective for seven (7) years. A separate notice must be published for each board with rulemaking authority. A notice under this subsection must provide for the following:

- (1) A written comment period of at least thirty (30) days.
- (2) A request for comments on specific rules that should be reviewed through the regular rulemaking process under IC 13-14-9.
- (3) A notice of public hearing before the appropriate board.
- (4) The information required to be identified or described under IC 13-14-9-4(5) through IC 13-14-9-4(7) in the same manner that would apply if the proposed renewal of the expired rule were a proposal to adopt a new rule.**

(d) The department shall:

- (1) prepare responses to all comments received during the comment period; and
- (2) provide all comments and responses to the board during the public board hearing;

described in subsection (c).

(e) The board, after considering the written comments and responses, as well as testimony at the public hearing described in subsection (c), shall direct the department on whether additional rulemaking actions must be initiated to address concerns raised to the board.

(f) For the rules described in subsection (a) that are effective on or before July 1, 2001, the notice described in subsection (c) shall be published in the Indiana Register before December 31, 2008."

Page 10, delete lines 21 through 42.

Page 11, delete 1 through 23.

Page 13, delete lines 12 through 42.

Delete page 14.

Page 15, after line 2, begin a new paragraph and insert:

"SECTION 30. [EFFECTIVE JULY 1, 2003] (a) **IC 13-14-1-11.5(b), as amended by this act, applies to proposed policies or statements presented by the department of environmental management to the appropriate board after June 30, 2003.**

(b) **The following, all as amended by this act, apply to proposed rules for which the department of environmental management provides notice in the Indiana Register of the first public comment period required by IC 13-14-9-3 after June 30, 2003:**

- (1) IC 4-22-2-28.**
- (2) IC 13-14-9-3.**
- (3) IC 13-14-9-4.**
- (4) IC 13-14-9-4.5.**
- (5) IC 13-14-9.5-1.1.**

(c) This SECTION expires January 1, 2004.

SECTION 31. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1671 as printed February 28, 2003.)

PIERCE

Upon request of Representatives Pierce and Dobis, the Speaker ordered the roll of the House to be called. Roll Call 290: yeas 44, nays 52. Motion failed. The bill was ordered engrossed.

House Bill 1813

Representative Crawford called down House Bill 1813 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1515

Representative Welch called down House Bill 1515 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1515-1)

Mr. Speaker: I move that House Bill 1515 be amended to read as follows:

Page 8, line 14, after "as" insert ":

(A)

Page 8, line 15, delete "state." and insert "**state; or**

(B) a representative of a state or local housing agency or authority acting under the authority of the United States Department of Housing and Urban Development."

Page 10, between lines 3 and 4, begin a new line block indented and insert:

"(5) A statement that the report does not address environmental hazards, including:

(A) lead-based paint;

(B) radon;

(C) asbestos;

(D) cockroaches;

(E) rodents;

(F) pesticides;

(G) treated lumber;

(H) mold;

(I) mercury;

(J) carbon monoxide; or

(K) other similar environmental hazards."

Page 10, line 24, after "inspector;" insert "**and**".

Page 10, delete lines 25 through 26.

Page 10, line 27, delete "(C)" and insert "**(B)**".

Page 10, line 32, after "builder;" insert "**and**".

Page 10, delete lines 33 through 34.

Page 10, line 35, delete "(C)" and insert "**(B)**".

Page 10, line 41, after "IC 25-34.1-3-4.1," insert "**and**".

Page 10, delete line 42.

Page 11, delete line 1.

Page 11, line 2, delete "(C)" and insert "**(B)**".

Page 12, between lines 19 and 20, begin a new line block indented and insert:

"(4) prescribe the number of home inspections that must be performed under the direction of a supervising inspector to obtain a license under this article, which number may not exceed two hundred fifty (250) home inspections;"

Page 12, line 20, delete "(4)" and insert "**(5)**".

Page 12, line 22, delete "(5)" and insert "**(6)**".

Page 12, line 28, delete "(6)" and insert "**(7)**".

Page 12, line 31, delete "(7)" and insert "**(8)**".

Page 12, line 32, delete "(8)" and insert "**(9)**".

Page 12, line 34, delete "(9)" and insert "**(10)**".

Page 12, line 38, delete "(10)" and insert "**(11)**".

Page 12, line 42, delete "(11)" and insert "**(12)**".

Page 13, line 6, delete "(12)" and insert "**(13)**".

Page 13, line 8, delete "(13)" and insert "**(14)**".

Page 13, line 10, delete "(14)" and insert "**(15)**".

Page 14, line 26, delete "two hundred fifty (250)" and insert "**the required number of**".

Page 16, line 7, delete "two hundred forty (240)" and insert "**the required number of**".

Page 18, between lines 41 and 42, begin a new line block indented and insert:

"(4) Accepting compensation, directly or indirectly, from other parties dealing with the licensee's client in connection with any repair work for which the licensee is responsible."

Page 18, line 42, delete "(4)" and insert "**(5)**".

Page 19, line 3, delete "(5)" and insert "**(6)**".

Page 19, line 10, delete "(6)" and insert "**(7)**".

Page 19, line 13, delete "(7)" and insert "**(8)**".

Page 19, line 15, delete "(8)" and insert "**(9)**".

Page 19, line 18, delete "(9)" and insert "**(10)**".

Page 19, line 19, delete "(10)" and insert "(11)".
 Page 19, line 21, delete "(11)" and insert "(12)".
 Page 19, line 23, delete "(12)" and insert "(13)".
 Page 19, line 25, delete "(13)" and insert "(14)".
 Page 22, line 22, delete "two hundred fifty (250)" and insert **"the number of"**.

Page 22, line 23, after "inspections" insert **"required for licensure"**.

Page 22, line 36, delete "The" and insert **"Notwithstanding IC 25-20.2-3-3, as added by this act, the"**.

Page 23, line 8, delete "two hundred fifty (250)" and insert **"the number of"**.

Page 23, line 9, after "inspections" insert **"required for licensure"**.

(Reference is to HB 1515 as printed February 28, 2003.)

WELCH

Motion prevailed. The bill was ordered engrossed.

House Bill 1268

Representative Orentlicher called down House Bill 1268 for second reading. The bill was read a second time by title.

HOUSE MOTION
 (Amendment 1268-1)

Mr. Speaker: I move that House Bill 1268 be amended to read as follows:

Page 2, after line 42, begin a new paragraph and insert:

"(c) A child presumed to be a child in need of services under this section may not be taken into custody or emergency custody under IC 31-34-2 unless the court first finds cause to take the child into custody or emergency custody following a hearing in which the parent, guardian, or custodian of the child is accorded the rights described in IC 31-34-4-6(a)(2) through IC 31-34-4-6(a)(5)."

(Reference is to HB 1268 as printed February 26, 2003.)

ORENTLICHER

Motion prevailed. The bill was ordered engrossed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

HOUSE MOTION

Mr. Speaker: I move that Representative LaPlante be added as coauthor of House Bill 1092.

KERSEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Kuzman be added as coauthor of House Bill 1232.

DUNCAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative LaPlante be added as coauthor of House Bill 1473.

KERSEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Becker be added as coauthor of House Bill 1575.

BISCHOFF

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Thompson be added as coauthor of House Bill 1589.

AVERY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Burton, Day, and Ruppel be added as coauthors of House Bill 1655.

BARDON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative D. Young be added as coauthor of House Bill 1751.

MAYS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Austin and Budak be added as coauthors of House Bill 1761.

AVERY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Summers be added as coauthor of House Bill 1845.

RUPPEL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative LaPlante be added as coauthor of House Bill 2005.

FRENZ

Motion prevailed.

On the motion of Representative Friend, the House adjourned at 7:45 p.m., this third day of March, 2003, until Tuesday, March 4, 2003, at 9:00 a.m.

B. PATRICK BAUER
 Speaker of the House of Representatives

DIANE MASARIU CARTER
 Principal Clerk of the House of Representatives